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In The

# Supreme Court of the United States

October Term, 1998

QUALITY PROFESSIONAL NURSING, INC., CRITICAL HEALTH CARE, INC., A COMPLETE HEALTH SERVICE, INC., ALL CARE NURSING SERVICE, INC., AND THE PDQ NURSE, INC.,

*Petitioners,*

v.

BETHESDA MEMORIAL HOSPITAL, INC., JUPITER HOSPITAL, INC., NME HOSPITALS, INC. D/B/A/ DELRAY COMMUNITY HOSPITAL, JOHN F. KENNEDY MEDICAL CENTER, INC., WELLINGTON REGIONAL MEDICAL CENTER, INC., NME HOSPITALS, INC., D/B/A WEST BOCA MEDICAL CENTER, PINECREST REHABILITATION CENTER, BOCA RATON COMMUNITY HOSPITAL, INC., SOUTH FLORIDA HOSPITAL ASSOCIATION, INC., and HIGH TECH STAFFING SERVICES, INC.,

*Respondents.*

**On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit**

## RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Whether the Eleventh Circuit Court of Appeals properly applied controlling precedents requiring that alleged restraints of trade be analyzed under the rule of reason unless the conduct in question is a naked restraint of trade, having no potential or capacity to promote or increase competition in the relevant market.

Whether the Eleventh Circuit Court of Appeals' opinion may be reasonably understood as having departed from controlling precedents applying the *per se* rule to naked restraints of trade.

Whether the "Preferred Provider Program" was properly analyzed as a group buying arrangement in that the evidence presented plausible arguments that the Program was intended to enhance overall efficiency and make the market more competitive.

Whether the jury's rejection of the only relevant market definition Petitioners attempted to prove was dispositive of their antitrust claims.

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7 P. Areeda, Antitrust Law ¶ 1511, p. 429 (1986) .... 27

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## CITATIONS TO OPINIONS BELOW

The opinion of the court of appeals is reported at *All Care Nursing Service, Inc. v. Bethesda Memorial Hospital, Inc.*, 135 F.3d 740 (11th Cir. 1998), and is appended to the Petition for Certiorari at pages 1-20. It is cited herein as [Pet. App. 1-20].

The unreported denial of the petitions for rehearing is appended to the Petition at pages 51-52 and it is cited herein as [Pet. App. 51-52].

The unreported denial of suggestions of rehearing *en banc* is appended to the Petition at pages 54-55 and it is cited herein as [Pet. App. 54-55].

The judgment of the district court is appended to the Petition at pages 21-28 and it is cited herein as [Pet. App. 21-28].

The district court's opinion denying post-trial motions is appended to the Petition at pages 29-50 and it is cited herein as [Pet. App. 29-50].

## STATEMENT OF THE CASE

Respondents are eight Palm Beach County, Florida hospitals (the "Hospitals"), the South Florida Hospital Association ("SFHA") and High Tech Staffing Services, Inc. ("High Tech"), a temporary nursing agency. The Eleventh Circuit's opinion affirms a judgment entered following a four-week jury trial on claims that a joint purchasing arrangement for temporary nursing services

violated Section One of the Sherman Act and its Florida counterpart.[1]

## A. Statement Of Facts

### 1. The Market For Hospital Services

During the late 1980s, hospitals in South Florida were engaged in vigorous competition for patients. [App. 1]. Patient census was flattening or declining. [App. 1-2]. Revenue pressure came from both private and public financing mechanisms. [App. 2-3]. Medicare regulations limited hospital compensation. [App. 3-4]. Privately insured or self-financed patients were accounting for an increasingly negligible share of the market. [App. 4]. Managed care plans began to dominate the market. They used the collective bargaining power of large groups of buyers (patients) to negotiate favorable hospital contract rates for terms of one year or longer. [App. 4]. This put a premium on a hospital's ability to predict its costs. [App. 4-5].

### 2. The Market For Nursing Services

Nurses are trained to work in hospitals, nursing homes, doctors' offices, clinics and other facilities, as well as in patients' homes. There is significant substitution

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[1] The final judgment also rejected claims for tortious interference with the business of temporary nursing agencies and awarded damages against Petitioner All Care Nursing Services, Inc., and its president, Julie Monahan, under the federal and Florida civil RICO statutes. [Pet. App. 21].

across these different work environments. [App. 5].[2] In the late 1980s, there was a nationwide shortage of available nurses. The market responded in a variety of ways, and the recession of the early 1990s drew some nurses back into the work force. [App. 5-6]. Hospital demand for nursing services eased as technology advanced and government and private payers pressed for shorter hospital stays and home care. [App. 5-6]. As of the early 1990s, the nationwide nursing shortage had ended. [App. 6].

### 3. Quality Care, Seasonal Fluctuations And Staffing

South Florida's winter climate causes hospitals' patient censuses to seasonally fluctuate by as much as thirty percent. [App. 7]. This presents obvious staffing challenges. Hospitals respond by hiring full-time and part-time nurses to meet off-peak needs. To meet peak demands, they add supplemental personnel drawn from a variety of sources. [App. 7-8]. "Per diem" nurses are hospital employees available to work open shifts on short notice. "Contract nurses" work full-time for a specified

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[2] Hospitals utilize several categories of nursing personnel. Registered Nurses ("RNs") hold the highest level of education and skill, and are licensed by the State of Florida to administer without supervision medications ordered by physicians. Licensed Practical Nurses ("LPNs") hold a lesser license and level of training, and may administer medications only under the supervision of a physician or RN. Certified Nursing Assistants ("CNAs") provide support to both RNs and LPNs, and are certified by the State upon completion of a standardized test and a course in basic health care skills, including first aid and CPR. [App. 6].

number of weeks. "Travel nurses" are contract nurses recruited from other areas of the country. "Temporary nurses" are hired through agencies on a shift-by-shift basis. [App. 8]. Temporary nurses are the least desirable option. Cost per hour is highest, the nurse is often unfamiliar with the hospital's staff, physical plant, protocols and procedures and evaluation of credentials and competence is often difficult. [App. 8-9].

### 4. Agency Functions And Problems

Nursing agencies keep non-exclusive lists of nurses who are available to fill shifts on call. Most agencies market their registry to many users of nursing services, including hospitals, nursing homes and home care. The agencies' rates are typically thirty percent higher than the rate for staff nurses. The agency pays the nurse ten percent more than the hospital would pay. The balance is the agency's margin. [App. 9-10].

As dependence on temporary nurses increased, administrators became increasingly concerned about quality of care. Agency nurses who performed poorly at one hospital would simply be sent to another where the problem would often resurface. There were no ready means for effectively sharing this information. [App. 10-12]. Hospitals' advance requests for a particular nurse proved ineffective, as agencies engaged in "phantom booking" (*i.e.*, promising to send a particular nurse, but substituting another) and "blind booking" (*i.e.*, promising a nurse though none was available and then canceling at the last minute if no nurse was found). [App. 12]. Many

agencies regarded their nurses as independent contractors, not employees. This relieved the agency of income tax withholding, unemployment and liability insurance and other costs, but it subjected the hospitals to concomitant risks. [App. 13-14].

Some agencies engaged in practices that compromised patient welfare or created contentious working relationships. [App. 14-15]. Most egregiously, petitioner All Care stole copies of hospital medication tests administered to ensure professional competence and provided the answers to their nurses with instructions to cheat. [App. 15-18]. During discovery, the Hospitals learned that All Care had repeatedly altered or misrepresented its nurses' credentials. [App. 18-19]. If no registered nurse was available, All Care would find a licensed practical nurse to masquerade as one, falsifying such records as were necessary to complete the deception. [App. 18-19].

As quality decreased, temporary nursing costs increased frequently, dramatically and unpredictably. [App. 19]. This seriously impaired planning, budgeting and effective contract negotiation with managed care plans.

### 5. The Preferred Provider Program

In the late 1980s, the Hospitals made individual attempts to deal with these problems through the use of generic contracts. However, these efforts had proved inefficient and unsuccessful. [App. 19-20]. At the same time, the SFHA developed a "Preferred Provider Program" (the

"Program") in other counties. The Program utilized the familiar mechanism of a group buying program to create efficiencies and address the common problems hospitals faced with agencies. The SFHA proposed a separate but similar program to the Palm Beach County Nursing Administrators Association. Twelve Palm Beach County hospitals, including Respondents, became SFHA associate members, and agreed to participate. [App. 63-70].

The SFHA distributed requests for proposals to all known agencies and a newspaper advertisement invited all others to submit bids. Each proposal was to include an agreement to employ nurses, to pay all taxes, insurance and unemployment benefits and to submit all nurses for pre-screening, testing and orientation. [App. 43-62]. As was customary, agencies agreed not to directly solicit a hospital's nurses, but the agencies remained free to advertise and hire any who applied. [App. 21]. The agencies would bid the price at which each was willing to provide services for one year. [App. 21]. The winning bidders would be selected as "preferred providers." Preferred status would lead to higher volumes as the hospitals agreed to use preferred agencies first and to use others only when the preferred agencies could not supply a nurse. [App. 33-34].

The Program integrated certain purchasing functions. These included (a) a "nurse liaison" to pre-screen nurses, coordinate hospital orientation sessions, verify licensure, administer tests and centrally monitor nurse performance [App. 37-39]; (b) contribution of a two percent fee to cover Program expenses (paid by the agencies, but recouped through inclusion in the bid rates); and, (c) a

select committee tasked with choosing the preferred providers. [App. 22-23].

### 6. The Price Went Up

Sixteen agencies submitted bids, including some of the petitioners. [App. 23-24]. The prices bid were higher than prevailing prices, as they reflected the costs of higher nurse salaries, taxes, employment, insurance and the administrative fee. The hospitals were disappointed, as they had hoped that the prospect of higher volumes would result in lower prices. [App. 24]. The SFHA then requested a second round of bids and suggested rates the hospitals regarded as reasonable.

As the process continued, some agencies expressed concern about making yearlong price commitments. In ensuing negotiations, the hospitals agreed to add an "escape clause" permitting contract termination on thirty days notice. [App. 24-25; 33].

Some agencies submitted new, lower bids, while others did not. Notably, no agency submitted bid prices as low as those the SFHA suggested. [App. 25]. The committee interviewed the agencies and selected eight bidders as preferred. Selection criteria included competence, service offering, quality and bid price. Price was not dispositive; some agencies were selected over agencies that had bid lower prices. [App. 26-28]. Each of the Hospitals then signed individual supply contracts with each preferred agency. In every case, the contract price was that bid by that particular agency. As a result, the prices were not uniform. [App. 25-26; 28]. They were, however, higher than pre-Program prices. [App. 28-29;

compare App. 40-42 to 71-82]. Several preferred agencies elected to reduce their profit margins, but many extended raises to their nurses in anticipation of greater volumes. [App. 29].

### 7. Implementation And Injunction

The Program commenced in November 1988. The Program was in place approximately three months; during that period, $2 million in temporary services were purchased by the hospitals. A substantial amount of that business was given to non-preferred agencies under the Program's terms. [App. 29-30]. The District Court enjoined the Program in February 1989. The Eleventh Circuit dissolved the injunction in November 1989, but the Program was not reinstated.

### 8. Changes In The Market And Their Impact On Agencies

During the late 1980s and early 1990s, Medicare, managed care and other cost containment pressures moved patients home for recuperation after shorter hospital stays. Many agencies responded by shifting their focus to home care, which they found to be more lucrative. [App. 30-31]. Hospital staffing declined both nationwide and in South Florida as a component of nursing agency business. [App. 31]. Successful preferred and non-preferred agencies anticipated and capitalized on these trends. Declines in Petitioners' businesses were attributable to management limitations and other internal difficulties. Throughout this period, the number of nursing

agencies in Palm Beach County remained fairly constant. [App. 31-33].

### B. Course Of Proceedings Below

Petitioners' suit alleged that the Program was *per se* illegal as price fixing and a group boycott, and unreasonably restrained trade in the relevant market they defined as "temporary nursing services provided to hospitals in Palm Beach County, Florida." [Pet. App. 37]. In November 1989, the Eleventh Circuit Court of Appeals vacated the District Court's preliminary injunction for failing to hold an evidentiary hearing on the "relevant product market, and the existence of market power" and other fact issues. *All Care Nursing Serv., Inc. v. Bethesda Mem'l Hosp., Inc.*, 887 F.2d 1535, 1539 (11th Cir. 1989).

At trial, the District Court first reserved and later denied Petitioners' motions for directed verdict and motion for a judgment as a matter of law. The jury subsequently rejected Petitioners' only proffered relevant market definition, and returned a verdict for respondents. Post-trial motions for judgment as a matter of law and for a new trial were denied. [Pet. App. 29-50].

In affirming, the Eleventh Circuit examined the Program's reliance on competitive bidding for year-long supply contracts that offered the reasonable expectation of increased volumes and resulting efficiencies. The court also considered the Program's non-price mechanisms and standards which integrated some purchasing functions and addressed quality, tax, employment and insurance

issues. With this predicate, the Eleventh Circuit rejected Petitioners' attempt to "pigeonhole"[3] the Program as either price fixing or a group boycott. Citing this Court's holding in *Business Electronics Corp. v. Sharp Electronics Corp.*, 485 U.S. 717, 723, 726 (1988), the court held that

> a presumption exists that the circumstances of a case will be looked at in the light of the rule of reason standard and will not be deemed *per se* unreasonable.

Pet. App. at 11. Whether *per se* or rule of reason analysis applies, the court continued, turns on whether

> the practice facially appears to be one that would always or almost always tend to restrict competition and decrease output . . . or [is] instead one designed to "increase economic efficiency and render markets more, rather than less, competitive."

*Id., quoting Northwest Wholesale Stationers, Inc. v. Pacific Stationery and Printing Co.*, 472 U.S. 284, 289-90 (1985).

The Eleventh Circuit explained that Petitioners had the burden to make a threshold showing that the Program fell into one of these forbidden categories. Pet. App. at 12, citing *Northwest*, 472 U.S. at 298. The court next analyzed Petitioners' contention that the Program constituted *per se* illegal horizontal price fixing because it was intended to "stabilize" prices for temporary nursing services. It rejected this argument on the grounds that price fixing is

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[3] The court recognized that this Court "has refused to force various practices into 'pigeonhole[s] and [to invoke] the *per se* rule' ", *quoting FTC v. Indiana Federation of Dentists*, 476 U.S. 447, 458 (1986).

a question of effect, not intent, and that the Program was not inherently anticompetitive. The hospitals never agreed on prices or a range of prices. The prices resulted from open, competitive bidding. And while the prices were "stabilized," in that individual one-year contracts resulted, this was not the kind of " 'stabilization' that can be viewed as price fixing" as the "escape clause allow[ed] the market, not the SFHA, to be the ultimate decision maker for each hospital and each agency on the issues of price, demand, supply, and terms of dealing." [Pet. App. at 15.]

The court, adhering to this Court's decision in *Northwest*, also found that the Program was not a *per se* illegal group boycott. "It is no longer true", the court explained, that "relevant market definition is a factor only after it has been decided that the rule of reason applies." [Pet. App. at 16]. Under *Northwest*, the court continued, a presumption of anticompetitive effects is unwarranted "[u]nless the cooperative possesses market power or exclusive access to an element essential to effective competition." [Pet. App. at 16, *quoting Northwest*, 472 U.S. at 296.]

The court then found the Program to have procompetitive features not found in a *per se* illegal group boycott. All agencies were entitled to bid, and hospitals purchased from non-preferred agencies when preferred agencies were unable to provide a nurse. Further, non-preferred agencies had numerous competitive opportunities besides the participating Hospitals. *Per se* treatment of any alleged boycott is unwarranted, the court continued, unless " 'the practice at issue historically leads to anticompetitive effects in the market.' " Pet. App. at 17,

*quoting Retina Assocs., P.A. v. Southern Baptist Hosp. of Florida, Inc.*, 105 F.3d 1376, 1381 (11th Cir. 1997). The court concluded that *per se* treatment was inappropriate because "no history of this kind seems to exist for health-care preferred-provider programs materially similar to what we have before us now." [Pet. App. at 17].

Turning to the rule of reason, the court found no basis for reversing the jury verdict rejecting Petitioners' only proposed relevant market definition. The court affirmed because this verdict precluded the necessary finding that the Program had anticompetitive effects in any relevant market.

## SUMMARY OF THE ARGUMENT

The Eleventh Circuit's opinion represents a correct and uncontroversial application of well established antitrust principles to a Program that was, in form and substance, a group buying arrangement. This Court, in *Northwest*, recognized that group purchasing arrangements possess procompetitive features that preclude *per se* condemnation absent shared market power or exclusive access to a resource necessary for competition. In so ruling, this Court reiterated its pronouncements in *BMI* and *National Collegiate Athletic Ass'n v. Board of Regents*, 468 U.S. 85, 104, n. 26 (1984) (*"NCAA"*) that *per se* analysis does not turn on whether the challenged conduct literally can be described as "price fixing" or a "group boycott" to which the *per se* rule might be applied. Instead, a court must examine the conduct to determine whether it has

procompetitive features or is of the type historically condemned as a naked restraint of trade.

At trial, petitioners attempted to prove that the relevant geographic market was confined to the political boundaries of Palm Beach County, Florida, even though that county is but one of four counties and numerous municipalities that lie within the contiguous South Florida metropolitan area. They attempted to confine the service market to nursing services provided by temporary nursing agencies to hospitals, ignoring nursing homes, home care, travel nurse agencies and other buyers and sellers. The jury rejected this arbitrary definition under proper instructions.

Petitioners' failure to prove a relevant market was fatal to their claims. The requisite finding of market power or actual anticompetitive effects within a defined market could not be made in the resulting analytical vacuum. Petitioner's demand for *per se* condemnation is an effort to overcome that failure by substituting a labeling exercise for the reasoned analysis this Court's decisions require.

The Eleventh Circuit properly grounded its decision on undisputed evidence that the Program's prices resulted from open, competitive bidding; that the Hospitals never agreed on a price or a price range; that preferred agencies were free to opt out of one year price commitments on short notice; that the Program included non-price features designed to enhance efficiency, lower administrative costs and improve quality; and that the Hospitals could and did purchase services from non-preferred agencies. No reported decision has ever applied

the *per se* rule to analogous activity. Moreover, *Northwest*, as informed by *BMI* and *NCAA*, forbids that result. Accordingly, none of the factors favoring review on certiorari are present.

## ARGUMENT

### I. THE ELEVENTH CIRCUIT'S DECISION CORRECTLY APPLIES WELL-SETTLED ANTITRUST PRINCIPLES

In *Northwest*, this Court considered whether a buying cooperative's expulsion of a member was an illegal group boycott. The case presented the Court with "broader questions as to when *per se* antitrust analysis is appropriately applied to joint activity that is susceptible of being characterized as a concerted refusal to deal." *Northwest*, 472 U.S. at 286. Recognizing that group boycotts are often condemned as *per se* violations, the Court analyzed its prior decisions to determine which types of group activity mandate *per se* treatment. These activities, the Court found, exhibit the likelihood of predominantly anticompetitive consequences and generally are unsupported by plausible efficiency or procompetitive justifications. The Court concluded that

> [w]holesale purchasing cooperatives such as Northwest are not a form of concerted activity characteristically likely to result in predominantly anticompetitive effects. Rather, such cooperative arrangements would seem to be "designed to increase economic efficiency and

> render markets more, rather than less, competitive."

*Id.*, at 294-95, *quoting BMI*, 441 U.S. at 20.

*Northwest* is instructive here in two key respects. First, the Court reaffirmed its pronouncements in *BMI* and *NCAA* that the *per se* rule will not be carelessly applied. Instead, *per se* analysis will turn on "whether the practice facially appears to be one that would always or almost always tend to restrict competition and decrease output . . . or [is] instead one designed to increase economic efficiency and render markets more, rather than less, competitive." *Northwest*, 472 U.S. at 289-90, citing *BMI*, 441 U.S. at 19-20. While "price-fixing" and "group boycotts" can be unlawful *per se*, a literal approach to *per se* analysis is "overly simplistic and often overbroad," because "easy labels do not always supply ready answers." *BMI*, 441 U.S. at 8-9. For example, although every joint purchasing agreement entails an agreement whereby purchasers literally "fix" prices and "refuse to deal" with certain suppliers, many such agreements promote competition. It follows that the presence of literal "price stabilization" or a "concerted refusal to deal" is the beginning of the analysis, not the end. *See Northwest*, 472 U.S. at 295-98.

Second, *Northwest* prescribes the appropriate analysis for joint purchasing arrangements. Because such arrangements do not characteristically result in predominantly anticompetitive effects, the Court held that

> [u]nless the cooperative possesses market power or exclusive access to an element essential to

> effective competition, the conclusion that expulsion is virtually always likely to have an anticompetitive effect is not warranted.

*Id.*, at 295-96, citing *NCAA*, 468 U.S. at 104, n. 26 ("[*p*]*er se* rules may require considerable inquiry into market conditions before the evidence justifies a presumption of anticompetitive conduct"). The Court concluded that a plaintiff

> seeking application of the per se rule must present a threshold case that the challenged activity falls into a category likely to have predominantly anticompetitive effects. The mere allegation of a concerted refusal to deal does not suffice because not all concerted refusals to deal are predominantly anticompetitive.

*Id.*, at 298.[4]

Petitioners attempt to distinguish *Northwest* on the ground that the Program did not enable smaller buyers to aggregate their purchase volumes and thereby obtain discounts available on the open market to larger competitors. This argument ignores undisputed record evidence that the Program offered identical or equivalent incentives and efficiencies. The participating hospitals agreed

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[4] Commentary on the evolution of antitrust analysis of joint purchasing confirms that such conduct is illegal *per se* only in extreme circumstances. *See* Jonathan M. Jacobson and Gary J. Dorman, "Joint Purchasing, Monopsony, and Antitrust," *The Antitrust Bulletin*, 29-30 (Spring 1991); *see also* ABA Antitrust Section, *Antitrust Law Developments*, 391 (3d ed. 1992) (*per se* rule applied "in extreme" circumstances where "the arrangements included essentially all companies in the market and apparently had no redeeming virtues").

to utilize the preferred agencies first, thereby increasing their sales volumes. This provided bidding agencies with the incentive to bid at competitive prices, and to adhere to the Program's non-price quality, insurance and tax features. At a minimum, these constitute "plausible arguments" that the Program was "intended to enhance overall efficiency" and to make the market "more competitive." *Northwest*, 472 U.S. at 294. *Northwest's* rationale applies fully to these facts.

Petitioners' efforts to distinguish *Northwest* ultimately proceed from the faulty premise that the *per se* rule applies unless the Program is indistinguishable from activity that has been found to require rule of reason analysis. This reverses the appropriate analysis. Rule of reason analysis is presumed. That presumption is overcome only where experience shows that the conduct is a naked restraint of trade, having no potential or capacity to increase competition. The presence of plausible procompetitive features precludes *per se* condemnation, unless there is at least a threshold showing of market power or exclusive control over a resource essential to competition. *See, e.g., BMI*, 441 U.S. at 19-20 (literal "price fixing" more appropriately reviewed under rule of reason where not a naked restraint with no purpose except to stifle competition); *FTC v. Indiana Fed'n of Dentists*, 476 U.S. 447, 458-59 (1986) (rejecting *per se* boycott "pigeonhole"). Without proof of a relevant market, Petitioners could not show either that the Program warranted *per se* condemnation or that the Program had the anticompetitive effects necessary to a finding of illegality under the rule of reason.

In all three of their "Questions Presented", Petitioners suggest that *per se* violations occurred when the Hospitals combined " . . . to jointly *force* each chosen agency to agree not to raise its prices for the next year and to offer identical prices to all participating hospitals . . . ." This "forcing" was the alleged work of "almost all competing hospitals in Palm Beach County" (Question I) or "a combination of competing hospitals (with yet other parties)." (Questions II and III). Petition, page i (emphasis added).

"Forcing", in the antitrust context, means market power; that is, the " . . . special ability . . . to force a purchaser to do something that he would not do in a competitive market." *Jefferson Parish Hospital Dist. v. Hyde*, 466 U.S. 2, 13-14 (1984). *See Northwest*, 472 U.S. at 296. Petitioners failed to prove what their questions suggest: that hospitals in a **defined market** jointly exercised **market power**. There was, therefore, no basis for a finding below that the Hospitals "forced" anything.

## II. THE ELEVENTH CIRCUIT'S OPINION IS CONSISTENT WITH, AND ADVANCES, PUBLIC ANTITRUST POLICY AS ANNOUNCED BY DECISIONS OF THIS COURT

Petitioners' various public policy arguments each stem from their insistence that the Program is not a group buying arrangement. Petitioners' warnings about the proliferation of "yet-cleverer price fixing schemes" are therefore unfounded. The same flaw infects Petitioners' effort to demonstrate conflict between the Eleventh Circuit's decision and *National Macaroni Manufacturers Association*

*v. FTC*, 345 F.2d 421 (7th Cir. 1965). In that case, the Seventh Circuit found that the major U.S. manufacturers of macaroni products had engaged in price fixing by entering into an agreement that was intended to ward off price competition for durum wheat in short supply. They did this by agreeing to use a blend of fifty-percent premium durum wheat and fifty-percent inferior farina wheat. The objective was to lower total industry demand for durum to the level of the available supply. The Seventh Circuit held that since the macaroni industry was the only market for durum wheat, and since the parties to the agreement dominated the domestic industry, the output restriction was *per se* illegal price fixing. However, the Court added an important caveat:

> It seems appropriate to note here that, in the instant case, Commission did not hold "that all efforts at product standardization, or all buying agencies or other cooperative buying arrangements, or all attempts to cope with scarcity or other conditions of economic dislocation, are unlawful under the antitrust laws."

345 F.2d at 427.

The Program bears no material resemblance to the output restriction that faced the Seventh Circuit thirty-four years ago. Most importantly, there was no output restriction: There was no agreement as to the quantity, quality or personnel mix (RN's versus LPN's, for example) of nursing services any of them would purchase or provide. In fact, it was undisputed that the Hospitals were engaged in vigorous head to head competition for patients, in general, and managed care contracts in particular. In the absence of a finding of market power, any

attempt at an output restriction was preordained to fail. The Program, therefore, could not and did not fix prices by limiting demand to meet supply. There is no decisional conflict of any kind.

In a similar vein, Petitioners argue that reversal is mandated by *Palmer v. BRG of Georgia, Inc.*, 498 U.S. 46 (1990) and *FTC v. Superior Court Trial Lawyers Association*, 493 U.S. 411 (1990). But neither decision dealt with conduct analogous to the Program. In *Palmer*, sellers of bar exam review courses engaged in a horizontal territorial market allocation that had ended, by agreement, their historic competition for law student customers. Prices tripled immediately. In *Superior Court*, an association of trial lawyers engaged in the ultimate output restriction: they went on strike. Specifically, they agreed on a fee schedule and jointly refused appointment as defense counsel until the government met their demands. This was pure price fixing, enforced by a boycott. In both cases, the competitors intended that their joint output restrictions would lead to higher **consumer** prices.

The Program presented the Eleventh Circuit with no such behavior. Hospitals remained in vigorous, no-holds barred competition for consumers; i.e., patients. The Program was related to purchases of an input, and absent a collusive exercise of market power in reselling that input, consumer injury could not be presumed. This Court has only approved *per se* condemnation of those practices that experience has shown to be consistently inimical to consumers' interests in competition. *See State Oil Co. v. Kahn*, 522 U.S. 3 (1997) (vertical price fixing subject to rule of reason analysis because price ceilings can benefit consumers).

### A. The Eleventh Circuit Neither Misconceived Nor Misapplied The Law Applicable To Horizontal Price Fixing

Petitioners argue that the Eleventh Circuit repeated its error in *Palmer* by categorizing the Program as group buying instead of a *per se* unlawful price fixing agreement. They premise this on a passage from *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 191 (1940) stating that, "combinations formed for the purpose and with the effect of raising, depressing, fixing, pegging, or stabilizing" price are illegal *per se*. *Id.*, at 223. In Petitioners' view, this "broadly encompasses" any horizontal activity that has any effect on price. The Eleventh Circuit erred, they add, by "misconstruing that breadth" as the Program's one-year supply contracts "stabilized" prices within *Socony-Vacuum's* rationale.

A review of *Socony-Vacuum*, however, reveals this argument to be unfounded. Competing oil companies agreed to purchase surplus gasoline on the spot market to eliminate that supply as a market factor. These purchases created a price floor that allowed the companies to maintain and raise their own prices to customers. *Id.*, at 191. This Court found the conduct unlawful *per se*:

> Prices are fixed . . . if the range within which purchases or sales will be made is agreed upon, if the prices paid or charged are to be at a certain level or on ascending or descending scales, if they are to be uniform, or if by various formulae they are related to the market prices. They are fixed because they are agreed upon. . . .

*Id.*, at 222-23.

The *Socony-Vacuum* agreement sought to prevent high supply and low demand from causing consumer prices to fall. In contrast, the Program used competitive bidding mechanisms to set the price of an input, with the hope that the offer of increased volumes would increase the competitive pressure to bid lower prices and to meet non-price quality and legal standards. The Hospitals never agreed on a specific price level, price range, or maximum or minimum prices, nor did they agree to restrict or limit any aspect of their competition for patients. Obviously, any supply contract "stabilizes" price for its term. This, of course, presents no antitrust concern as market forces set the price. Group buying creates no different or greater concern unless the buyers collectively possess market power or control over a resource necessary for competition. For example, two small buyers in a market that included many larger buyers could not illegally "stabilize" price by pooling their wholesale purchases through joint one-year supply contracts. Given Petitioners' failure to prove a relevant market, the analysis here must be the same.

### B. The Eleventh Circuit Did Not "Misapply" *BMI*

Petitioners argue that the Eleventh Circuit "misapplied" *BMI* because its "exception" to *per se* illegality applies only in "exceedingly narrow circumstances" where the price fixing is necessary if the product is to be offered at all. They add that the Eleventh Circuit repeatedly invoked *BMI* "not for its narrowness, but instead as purported precedent for exempting almost any price-fixing scheme." Petition at 24. This does not fairly

describe the Eleventh Circuit's analysis. *BMI* was cited for the fundamental principle that application of the *per se* rule "is not a question simply of determining whether two or more potential competitors have literally 'fixed' a 'price.'" [Pet. App. at 13, citing *BMI*, 441 U.S. at 9].

> Not all arrangements among actual or potential competitors that have an impact on price are *per se* violations of the Sherman Act or even unreasonable restraints.

[Pet. App. at 14, citing *BMI*, 441 U.S. at 23].

Tellingly, *BMI* includes cooperative buying arrangements as among those activities that are "designed to increase economic efficiency and render markets more, rather than less, competitive." 441 U.S. at 20. Similarly, this Court quoted its *BMI* decision in rejecting *per se* condemnation of the *Northwest* buying cooperative, even though it was, literally, a horizontal agreement that affected price and excluded some competitors. *Northwest*, 472 U.S. at 295, citing *BMI*, *supra*, 441 U.S. at 20. The Eleventh Circuit correctly apprehended and properly applied this analysis in declining to apply the *per se* rule to the Program.[5] Given this Court's identical treatment of

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[5] Nor did the Eleventh Circuit "ignore" its holding in *National Bancard Corp. v. Visa U.S.A., Inc.*, 779 F.2d 592 (11th Cir. 1986). The court, citing *BMI*, considered whether an "Issuer's Reimbursement Fee" charged by the VISA credit card system was *per se* illegal because it constituted literal price fixing. The issue framed was "whether the practice, on its face, always or almost always tends to restrict output or instead is likely to assist in the creation of economic efficiency." *Id.* at 603. The court applied the rule of reason because it found the arrangement to be a procompetitive "mechanism by which

the *BMI* holding in *Northwest*, Petitioners' alarm over the Eleventh Circuit's decision is misplaced.

### C. The Eleventh Circuit Did Not Misapprehend The Program's Horizontal And Vertical Components

In a footnote, the Eleventh Circuit observed that the Hospitals' "alleged attempt to fix prices" by "agreement with each other would be horizontal – an agreement between competitors." [Pet. App. at 15, n. 14]. The court then analyzed the implications of a horizontal combination of buyers without market power that "stabilized" prices through joint one-year supply contracts. [Pet. App. at 15]. It rejected Petitioners' effort to categorize the Program as *per se* price fixing on this basis.

In the same footnote, the Court observed that the Program had a vertical component: each hospital signed a separate supply contract with each preferred agency. Petitioners also insisted that this activity was *per se* illegal price fixing, and they continue to pursue that charge against High Tech to this day. It was, therefore, more than appropriate for the court to observe that the contracts with preferred agencies were vertical and subject to the rule of reason. *State Oil Co. v. Kahn, supra.*

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VISA ensures the universality of its card, not a price fixing device to squeeze out entrepreneurs." *Id.* at 602.

### D. The Program Constituted Procompetitive Group Buying

This issue is dealt with above. Respondents add that the Department of Justice's and FTC's joint "Statements of Antitrust Enforcement in Health Care" of August 1996 that Petitioners cite[6] actually contradict their *per se* arguments. The statements simply echo this Court's holding in *Northwest* that joint purchasing arrangements are unlikely to raise antitrust concerns absent market power or purchase volumes so large that they may facilitate price fixing or otherwise reduce competition. Either circumstance requires market analysis. Moreover, the footnote Petitioners cite would apply the *per se* rule only to an "agreement among purchasers that simply fixes the price that each purchaser will pay or offer to pay for a product." The Hospitals made no such agreement. They signed contracts at prices bid by the sellers.

## III. THE ELEVENTH CIRCUIT CORRECTLY CONSIDERED AND REJECTED PETITIONERS' CONTENTION THAT THE PROGRAM WAS A *PER SE* ILLEGAL GROUP BOYCOTT

In pressing their boycott theory, Petitioners attempt to distinguish *Northwest* in favor of *Superior Court*. The latter case, they contend, holds that "a boycott in furtherance of horizontal price fixing is *per se* unlawful." But *Superior Court's* rationale renders it inapplicable to the Program:

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[6] Petition at 26, n. 18, citing 4 Trade Reg. Rep. (CCH) ¶ 13,153, p. 20, 812, n. 17.

> The agreement among the CJA lawyers was designed to obtain higher prices for their services and was implemented **by a concerted refusal to serve an important customer** in the market for legal services and, indeed, **the only customer** in the market for the particular services that CJA regulars offered. "This **constriction of supply is the essence of 'price-fixing,'** whether it be accomplished by agreeing upon a price, which will decrease the quantity demanded, or by agreeing upon an output, which will increase the price offered."

*FTC v. Superior Court Trial Lawyers Association*, 493 U.S. at 423 (emphasis added). In contrast, the Program featured competitive bidding open to all agencies, no refusal to sell, no output restriction and no collusion of any kind in competition for customers. [See App. 34-35] *Per se* condemnation is therefore precluded.

## IV. NO APPLICABLE PRECEDENT EXCUSES PETITIONERS' FAILURE TO PROVE A RELEVANT MARKET

Petitioners note that in *NCAA v. Board of Regents*, 468 U.S. 85 (1984), and *FTC v. Indiana Fed'n of Dentists*, 476 U.S. 447 (1985), this Court indicated that formal analysis of the relevant market is, in some limited circumstances, unnecessary to assess market power. In both cases, the Court found *per se* analysis to be inappropriate, but found the restraints unlawful under the rule of reason without formal analysis of the relevant market. The Court did so because the respondents had presented no credible "competitive justifications" for their naked restraints on price,

output and service. *NCAA*, 468 U.S. at 101, 109-110; *Indiana Fed'n*, 476 U.S. at 458-60.

In contrast, procompetitive justifications are normally attendant to group purchasing arrangements; thus, those arrangements must be analyzed in the context of a relevant market. *Northwest*, 472 U.S. at 295-98. Nor does the present record support application of the caveat that " 'proof of actual detrimental effects, such as a reduction of output,' can obviate the need for an inquiry into market power." *Indiana Fed'n*, 476 U.S. at 460-61 (*quoting* 7 P. Areeda, Antitrust Law ¶ 1511, p. 429 (1986)). Those effects were apparent in *Indiana Fed'n* because of the naked restraint on output – insurers were unable to obtain compliance with their requests for x-rays over a period of years. *Indiana Fed'n*, 476 U.S. at 460. Here, Petitioners' failed to offer evidence that **consumers** of hospital services were harmed in any way by the Program. This precludes a finding of actual detrimental effects sufficient to obviate market definition.[7]

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[7] *See Tarabishi v. McAlester Reg'l Hosp.*, 951 F.2d 1558, 1569 n. 15 (10th Cir. 1991) (1992) (need proof that "consumer choices were in fact reduced or impaired"); *Jefferson Parish Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2, 29-30 (1984); *Coffey v. Healthtrust, Inc.*, 955 F.2d 1388, 1393 (10th Cir. 1992) ("reshuffling of competitors" does not constitute actual detrimental effects).

## CONCLUSION

For the foregoing reasons, Respondents respectfully submit that the petition for certiorari should be denied.

Respectfully submitted,

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## APPENDIX

EXCERPTS OF TESTIMONY

* * *

[p. 174] Q. He was doing everything he could to try and keep this hospital from going out of business, right?

A. Correct.

Q. The hospital, I guess, was competing with the other hospitals in the area?

A. Correct.

Q. And two of them weren't going to make it; that was the fear in 1988, right?

A. That was the theory.

Q. And Peter Faron acted to make sure that his hospital, the one he was given responsibility for wasn't one of the hospitals that went out of [p. 175] business, correct?

A. Correct.

* * *

[p. 4279] Q. All right. Then the next column, what does that mean?

A. That's the number of acute care bed hospitals that existed during each of those years in Palm Beach County. And as you can see, there were always 15 hospitals in each and every one of those years.

Q. All right. Then the next column sir, total acute care beds?

A. That's the number of beds made available for acute care by hospitals in each one of those years except the year 1990. And I'm prepared to tell you that that number is the same as the [p. 4280] earlier year, 3198.

Q. All right, sir. And then the last column average occupancy rate, what does that mean?

A. That measures how frequently those beds are being used and how long the patients are staying and what we call kind of a combination of patient days. And it shows that while there were 3212 beds in 1988, the – and the average occupancy rate was 54.8 percent of the time, that by the year 1992 there were 3186 beds, a slight decrease in the number of beds, and that the average occupancy rate had, in fact, slightly fallen to 53.1.

* * *

[p. 4582] On the other hand, the hospitals are operating under the constraints of regulation. We're all I think familiar with the problems, the issues involved in health care including the fact that Medicare, Medicaid, Hmo's, Blue Cross/blue Shield all make some dictates that regulate how much hospitals can be reimbursed for particular sorts of care. And within Florida we also have the Cost Containment Board that is operating to put a further constraint on what hospitals can do –

Q. And when you say –

A. – in terms of pricing.

Q. So are you saying there's some limit on the ability of hospitals to raise their charges to patients?

A. Sure, there's some limit on hospital's flexibility in, quote, passing on the additional costs of carrying out this program to, to patients.

* * *

[p. 1279] Now, what Medicare did, they had over 400 classifications of diagnosis, and they came up with this rather complexion rate that capitated.

What they did is they paid hospitals for, say, an appendectomy a flat amount of money. "How much do you get for the appendectomy?"

So if a person came into the hospital and stayed for a week for an appendectomy, the hospital would lose money.

If the person were able to get out of the hospital sooner than that, then the hospital was able to provide that service for a lower cost and would actually make money.

Now – okay.

Q. As far as, as far as the Medicare requirements, are they adjusted in any way considering the cost to the hospital for services such as temporary nursing services?

A. Well, no, they are not.

What they do is they take, take a regional, they use national data and they include salaries, nursing salaries in that, but they use regional data also among hospitals. And if the – whatever the average regional is is what they would [p. 1280] reflect into this, this diagnostic rate that they would give the hospital. But if a hospital spends a

lot more money for temporary nurses, they don't include that.

* * *

[p. 1347] Q. The whole trend in the market now means that fewer and fewer and fewer patients come to the hospital as individual private insureds, correct?

A. As private insured patients it's lower [p. 1348] that's correct.

* * *

[p. 64] You are aware, are you not, that hospitals sign contracts with HMOS and PPOS that obligate them to a certain price for a one-year period of time, correct?

A. Yes.

Q. So hospitals' revenues from which they pay nurses are locked in or stabilized for that period of time, right?

A. Right.

Q. Okay. And when a hospital signs a contract with an agency and the agency agrees to charge that price for one year, that price is locked in or stabilized in the same sense, correct?

A. Right.

* * *

[p. 397] "A. The concern of the hospitals were that the hospitals essentially have to operate on a fixed reimbursement system that's dictated by the federal government and by contractual arrangements in preferred

provider organizations. And so if your temporary nursing services are going up, prices are going up every month, it's kind of hard to operate your business if you don't know what the prices of your input's going to be next week. You can't plan and operate and provide services that a hospital is supposed to provide in that kind of environment.

* * *

[p. 3891] A. There were nurses that certainly preferred to work only in hospitals. But, in general, if push came to shove, the nurses would work wherever, if they wanted to work, would work where the work was available.

[p. 3892] Q. And what would that include?

A. Everything: nursing homes, private duty, home care, doctor's offices. Just . . .

* * *

[p. 3903] Q. Now, let me ask you, sir, to what do you attribute the decrease in High Tech Staffing Services by a factor of 75 percent over the 1989 to 1995 period?

A. Oh, a number of things happened. One is, well, I just mentioned, that the hospitals have been releasing the patients earlier because of the DRG's, and so we're getting sicker clients. Actually, every state in the Union for the last five years or so there's been an increase in home health visits per Medicare beneficiary which means that, you know, hospitals nationwide are, are releasing patients earlier.

The second thing I think that happened was the recession. And as a consequence, some nurses who were at home came back into the work force, so that alleviated the shortage a bit.

* * *

[p. 47] Q. What has happened in the area of shortage of nursing services in Florida since the shortage we've described in 1988, if you know, up to the present time?

A. Well, the shortage has decreased. I think that's fairly common knowledge. And in Florida it's about seven to eight percent. Figures for the rest of the country are like four to five percent. So it's a little bit higher here, but it's not critical.

* * *

[p. 5877] By a separate statute governing nursing homes in the State of Florida, and effective between 1994 and 1989, the state required that any person other than an RN or an LPN who serves as a nursing assistant in a nursing home must be certified by the state. This requirement does not apply to hospitals.

To qualify for a nursing assistant certificate, a person must have received at least a score of 75 percent on the state certification examination, which was a test approved by the Department of Education or successfully completed a nursing assistant program in a state-approved school.

* * *

[p. 3889] One of the problems with the hospitals are they are very seasonal. And like for every nurse that you place during the low season, you could place three nurses during the high season. And between, the delta or differential between the [p. 3890] lowest part of low season and the highest part of high season may be seven nurses placed in high season for every nurse that's placed in low season.

* * *

[p. 3890] When we serve the hospitals during the high season, we had to balance the customers, that is, we couldn't take all the nurses from the nursing homes because then the nursing homes wouldn't use us during the low season and we obviously couldn't take away all the private duty or home care nurses because then the patients would get sicker or whatever. So there was always a balancing act.

* * *

[p. 2531] Q. And would there be – well, would that planning then extend evenly throughout the year?

[p. 2532] A. No. There would be, there's a phenomenon in South Florida where there are seasons, what we call season, which generally for us we define as December through March or April, and there would be a peak activity in that time.

So what you endeavor to do in your budgeting process was look at what core staff you would need during the nonseason times and maintain your full-time and part-time staff at that level. Then you would look at, for instance, if a unit average daily census would be 8 but

you knew in the peak time it could go up to 16, you would look at how you would meet that challenge, that need to increase the staff for a short interval of time. Therefore, you would utilize the contracts of assignment, the travel agency nurses as well as the temporary nursing agencies to fulfill that need.

* * *

[p. 2534] Q. Now, within those budget constraints did you then – were you able throughout your time period to meet the seasonal fluctuations that you discussed?

A. It was a challenge, a special challenge, I think staffing was.

We would try to predict what our average increase in activity would be for the season and utilize travel nurses or contracts of assignment because that was, that was a known. We knew we may not be 16 patients every day, but we would surely get to 12. So we would take contracts of assignment and travel nurse contracts for that [p. 2535] component and then we would try to remain more flexible with the temporary nursing agencies.

* * *

[p. 3982] "A. My number one problem is the thought of people coming into my institution, providing patient care services, that have never ever been in my doors before. The responsibility that I feel I have to patients is inconsistent with letting that happen. And, unfortunately, that is, that is a reality. You know, being up there on a nursing unit unfamiliar with what's going to happen with me as patient, knowing that the person

caring for you has but five minutes before walked in those doors, to me must be a frightening experience. I have never had it.

"In terms of the potential that could happen in that situation, and from the lack of orientation, the lack of knowledge, the lack of understanding about our particular [p. 3983] hospital, to me just is unlimited. That was very frustrating. Not knowing the individuals, not having a lot of history with the agencies, not having a lot of knowledge firsthand early on, that was extremely frustrating for me, yes.

* * *

[p. 1591] Q. Now, tell the jury, if you please, ma'am what was your gross margin when you sold nursing services to a hospital. How much did you mark up what you were paying the nurse?

A. Over what we paid the nurse?

Q. Yes, ma'am. Your gross margin.

A. I think that we worked at about 30 percent.

Q. So –

A. I believe.

Q. So if you paid the nurse $20 –

A. Right.

Q. – you charged the hospital roughly $30 an hour.

A. Right.

Q. And that $10 an hour didn't go to the nurse; it went to Pdq Nurse, Inc. for overhead and for profit, correct?

A. That's correct.

* * *

[p. 1880] Q. So that's a very small agency, isn't it, ma'am?

What you had was you and some people that you'd known and you left your jobs in hospitals and you started working through your agency, is that a fair characterization?

A. That's how we began, yes.

* * *

[p. 809] Q. So in the effort to open up the blood vessels and take the pain away from the heart, blood pressure can drop?

A. Right.

Q. And am I right when that happens a patient can suddenly lose consciousness?

[p. 810] A. Can.

Q. State to breathe laboriously?

A. Can.

Q. And if it's not caught in time, they could die?

A. They could.

Q. And it's a good thing you were there, isn't it?

A. Yes.

Q. You spent your time that night, instead of watching other nurses, watching what an agency nurse was doing?

A. Correct.

Q. And if you hadn't been watching something pretty bad could have happened?

A. It could have.

Q. All right.

Now, was there any mechanism in place for you to get the word out to other hospitals in South Florida to watch out for this nurse if she shows up in the critical care unit?

A. No.

Q. So the next night that nurse could have been somewhere else through High Tech or any other agency she had signed up with?

[p. 811] A. Could have.

Q. And someone else could have had your experience again?

A. Could have.

Q. Now, on the note that you read, if I remember correctly, it says, "I am concerned with the quality of agency." By that did you mean agency nurses in general?

A. Yes.

Q. It wasn't High Tech; it was agency nurses you were concerned with, correct?

A. Right.

* * *

[p. 563] Q. Okay. Have you ever heard the phrase phantom booking?

A. Yes.

Q. Tell the jury what that is, please.

A. Hospitals would request an individual, and some of the nursing agencies would put somebody's name in that you had requested, and someone would show up in their place.

* * *

[p. 2667] A. I think we use those, phantom and blind [p. 2668] booking, interchangeably.

Q. I see. So it was a situation where if you had requested previous nurse Jones and nurse Smith shows up, that was a concern?

A. No. It wasn't a request at all. It was the agency – we would tell the agency we needed a nurse to work in such and thus area on this particular shift. They would either tell us then or call us back with a name. And that could be anywhere from two weeks to four weeks ahead of time. And that day arrives and it's an hour before the shift, and that nurse can't come, and you get another name or you just get a cancellation; they can't fill the shift at all.

* * *

[p. 484] Q. Prior to that time did Florida Nurses Network offer nurses in either/or both formats, that is employer/employee or independent contractor?

A. We went to an employer/employee relationship at that time.

Q. Okay. And had you set the rates for your employer/employee nurses according to what you felt was appropriate in the market to be competitive at that time?

A. Yes, I did.

Q. What effect did it have on your rates to go to an employer/employee relationship?

A. Of course, it increased your rates because you have more fringe benefits.

Q. What kinds of things would go into that format that caused the rates to go up?

A. Income tax, workmen's compensation, your liability insurances. All those things impacted the rates.

* * *

[p. 3978] "Q. Okay. You mentioned you had some concerns regarding how the Irs might treat [p. 3979] independent contractors?

"A. Uh huh." Affirmative.

"Q. Do I understand that to mean that you had a concern that perhaps the Irs might look to the hospital in some way for unpaid taxes of nurses?

"A. That's correct.

"Q. Okay. When you mentioned workmen's compensation or workers' compensation, do I understand correctly that you had a concern that if a nurse was injured on the job, that maybe the hospital might get named as the employer?

"A. Actually what spurred that was an incident.

"Q. Okay.

"A. And so I have some first-hand knowledge of that.

"Q. Okay.

"A. But, you know, your scenario is true. I am not sure that I was clear at that time as to who would be responsible.

"Q. Okay. And would I be correct also that another one of your concerns was that if a nurse wasn't properly covered with [p. 3980] malpractice insurance, that perhaps the hospital might have to pay a greater amount than its share if a judge or a jury decided that someone was negligent, specifically that the nurse was negligent?

"A. That's true.

* * *

[p. 2651] Q. Are you aware during the time period 1983 to '84 when you first started doing business with Qpn at Bethesda in August, mid August of 1988, are you aware of a single other document evidencing problems that you had with Quality Professional Nursing? Are you aware?

A. I can't recall any specific documents. I just know about the trend of doing business with agencies.

Q. Isn't it a fact, ma'am, that the real significance of this document in this case is that having a problem that was worth making a document over with Quality Professional Nursing over the years you did business with them, was so unusual, so exceptional, that this is the only one that stands out? Isn't that the real significance?

A. The real significance is the fact that the services of Quality Professional Nursing deteriorated. And what prior to this we could rectify with a conversation, we felt we couldn't, and we needed to take the next step and document it [p. 2652] in writing.

* * *

[p. 3222] "Q. And your pay slips reflected that you were working for All Care?

"A. All Care Nursing Services.

"Q. All right. Do you know what a medicine test is?

"A. Um-hum.

"Q. All right. Would you tell me what that is?

"A. Well, it's to test your knowledge on dosage, medications, the interactions of medications, the actions of medications to see if you know what you're doing once you're giving medications to a person.

"Q. Okay. And did you ever have the occasion to take a medicine test when you arrived here in Florida?

"A. Yes.

"Q. And would you tell me the [p. 3223] circumstances around that?

"A. Well, Julie kept asking Jim and I to go to Bethesda, go to Bethesda, take the test and go to Bethesda and –

"Q. That would be Bethesda?

"A. General hospital?

"Q. Okay.

"A. On Seacrest Boulevard there.

Bethesda Memorial?

"Q. Okay.

"A. Whatever.

So Julie said to Debbie, 'Give them a copy of the test,' which Debbie did. She gave us a copy of the test for Bethesda and one for Pinecrest and on this test were written the answers.

In fact, I have the test. I still have it.

And she said, you know, 'Read this and then go down and take the test.'

Well, the night before we took the test we were working eleven to seven at one of the nursing homes somewhere, I forgot where it was. So we did go and take the test the next morning.

[p. 3224] Well, apparently that afternoon somebody had called Debbie and said that Jim and I both had failed this test."

"Q. Someone had called from where? I'm sorry.

"A. From Bethesda, okay?"

"Q. Go ahead and answer.

"A. Bethesda test, you know.

So Bethesda called All Care, apparently. Now, who they talked to, I have no idea, but Debbie told me that Jim and I both failed the test.

"Q. Okay.

"A. So I said, 'Well, I don't understand that, you know. I mean, I had the answers. How could I have failed the test?'.

So I called the DON down there, I think she was the DON or the nurse manager, and asked to come down and talk to her to see the test, I was curious, which was my right.

[p. 3225] So I went down. She was a very nice person, very loving person. She had my test there. And I looked and I said to her, 'Well, they are right, aren't they?' And they weren't because what apparently had happened, they had moved decimal points. The answers were nearly the same. The only thing that was changed was like a decimal point. And if you didn't look at the test thoroughly and just marked the answers down, it was the same as the one that Debbie had given me.

So I went back to the office and I talked with Debbie and I told Debbie about the test, and she said, 'You're kidding." I said, 'No. I'm not.' I said, 'They have changed the test whereas you don't even recognize it if you just

went in there and wrote the answers down from the sheet that you gave me.' "

* * *

[p. 3264] Q. What exactly do you sign? What piece of paper?

A. If it's a medication, it's their med sheet, a MAR, M-A-R. You sign your name and then on the date and the time you initial.

Q. All right. And is it customary or are you required when you sign the med sheets or the chart to indicate that are you an Lpn?

A. Yes.

Q. Was that a practice that you had when you filled shifts at nursing homes?

A. Yes.

Q. All right.

Now, if you would, please, turn to the second page and tell us – Defendants' Exhibit 1551 – tell us, please, the facility, the date, the time and the capacity in which you filled that shift.

A. Regents Park, December the 19th, 1987, 11:00 p. m. to 8:30 a. m. in the morning and I signed as an Rn.

Q. Now, were you ever an Rn?

[p. 3265] A. No.

Q. Why did you do that?

A. Because I was asked to.

Q. Who asked you to do that?

A. Julie Monahan.

Q. Can you describe for us as best you can that conversation?

A. She just, she needed an Rn in this facility and there apparently wasn't any available, and she convinced me that I was a good enough nurse to do this and that it wouldn't be a problem, it would just be routine and would I please go, and I did.

* * *

[p. 249] Q. Before the preferred provider program took effect at Palms West Hospital do you have any understanding as to what was happening in the marketplace with regard to the prices that temp nursing agencies were charging? Were they changing?

[p. 250] A. The main problem with agencies at the time is they had no conscience for price. They increased their prices at will at any time. They would give you a notice that they were increasing them sometimes extremely high. Every three months we could get a price raise and every three months somebody else would do the same thing.

* * *

[p. 2572] Q. And did you attempt to address those trends through unilateral contracts between Bethesda and the agency?

Mr. Powers: Objection. Leading.

The Court: Objection overruled.

The Witness: Yes, we did.

By Mr. Diesenhaus:

Q. Do you feel you were successful in those attempts?

A. No, I feel we were not successful in [p. 2573] those attempts.

Q. Why do you feel you were not successful?

A. The agencies were still engaging in phantom booking, they were still sending us people who were not qualified, we were still having problems with agency staff. And year after year when we negotiated contracts we tried to increase, refine our quality assurance measures, but they seemed to be to no avail. We still would be left with the disruption of having an agency nurse booked and having her canceled at the last moment and having to rearrange a half hour before a shift would start and patient assignments would already be made, we would have to rearrange the assignment of that particular unit which would most often have a domino effect on other units because you had to redistribute the expertise and relook at it.

And we tried to develop a penalty for agencies canceling nurses two hours prior to a shift. That still did not help this.

* * *

[p. 118] "Q. Now, let's today a look at number [p. 119], hiring and recruitment of hospital/agency personnel, in caps and underlined. Because of the relationship between each association member, referred to below as a hospital, and its nursing personnel, and the time, effort and cost involved in recruiting and training nursing personnel, the following paragraph is set forth herein and must be part of any contract that results from this request for proposal:

"Quote, recognizing, one, the special nature of the relationship existing, or which will exist, between the hospital and the nursing personnel which it employees, and, two, that the recruiting and training of personnel by the hospital is a costly and time-consuming endeavor, the agency agrees that it will not, during the terms or any renewals hereof, or for a period of six months following termination of this agreement, directly or indirectly, through any manner or means, impair or initiate any attempt to impair the relationship that exists between the hospital and nursing personnel employed by the hospital through offers of employment, offers of [p. 120] contracts for services to be rendered by such personnel, offers to arrange permanent or temporary, full or part-time placement of such personnel at hospitals or other health care providers, or otherwise; provided that the agency shall not be prohibited from employing nursing personnel who solicit such employment otherwise than as a result of agency action described in the preceding clause, unquote.

[p. 2955] Q. All right.

Now, do you recall whether the bidding that was called for was for a term of one year?

A. Yes, it was for one year.

* * *

[p. 127] "Q. What was the intended use of this two percent gross dollar volume? What was the purpose?

"A. The purpose of this was to pay for services in the management of the program or the administration of the program.

"Q. Such as?

"A. Such as a staff person to work as a liaison between the hospitals and the agencies and then it would cover travel expenses and so forth back and forth.

* * *

[p. 2685] Q. Now, what did you understand at the time you were being interviewed, what did you understand to be the nature of the position of nurse liaison? What were you supposed to accomplish?

A. My understanding was that they were looking for a coordinator, a liaison between the two groups that would deal with issues in regards to the qualifications of the nurses, the scheduling, the communication problems, so to speak, a trouble shooter.

* * *

[p. 2776] Q. Someone from another hospital or other hospitals you competed with made a decision about whether from your hospital's standpoint Qpn would or would not be a preferred agency; is this true?

A. There was a group of people out of our administrative group, there was a committee chosen to review the

documents that had been sent in. That committee made the decision.

Q. That committee did not have anybody from Palms West on it when it made the decision?

A. No, sir.

Q. Correct?

A. No, sir, it did not.

* * *

[p. 354] "Q. And it says, 'Chandler Bailey reviewed the bids received form the various nursing agencies. 16 bids were received. Letters of intent to bid were received from two other agencies.'

Do you recall which agencies the other two were?

"A. The other two? I recall one. I can't remember the name of the other one.

* * *

[p. 3567] Q. Okay, Ma'am. That's fine.

[p. 3568] Now, let me ask you, please, if you'll turn the page to page 13 and tell the jury, if you will, what it says, tell the jury, please, how much All Care bid to supply a registered nurse medical/surgical on the day shift seven to three on Monday through Friday.

A. $36.

Q. All right, sir.

A. This was done by a travel company and she included apartments in there. She didn't know not to do that.

Q. All right. Let me ask you, ma'am, if you would look, please, at Plaintiffs' Exhibit 1873 –

A. I think that's what she was doing. I can't speak for Debbie, really.

Q. Let me ask you to look at Defendants' Exhibit 1873 and let me ask you, if you will, to read the bid of Nurses Prn for Rn medical/surgical for the seven to three shift.

[p. 3569] A. 25.50.

* * *

[p. 2959] Q. Well, how big a factor was it? How important a factor was price in the selection of the preferred agencies?

A. Well, as I said before, we were hoping that the price would come down based on volume. But what happened, if I recall correctly, is that some of the agencies' prices were even higher than what they currently were providing nurses to the hospitals for, and I don't think that really was the deciding factor in the decision of what [p. 2960] agencies we chose.

* * *

[p. 3896] Q. What options, as you understand it, would High Tech have for the one-year term of the contract with respect to what it paid nurses during the term of the contract?

A. We could have increased their pay. We could have decreased it. We had the 30-day termination clause so that if the pay of nurses by the nonpreferred agencies greatly exceeded what we were able to pay, we could

have dropped out of the program. We felt relatively comfortable in terms of our position.

* * *

[p. 3137] "Q. Did you, in fact, submit a second bid with lower prices after receiving this letter from South Florida Hospital Association?

"A. No, we did not.

* * *

[p. 2246] Q. Give me just a moment, sir.

All right. Let's do it like this to save time.

Let me ask you to assume that Mr. Miller wrote back to Chandler Bailey, questioned the bone fides of the program, questioned severely whether they really cared at all about quality, accused them of caring only about price and told them, "I can't lower my rates. You've raised my costs," and then the South Florida – he refused to rebid, kept his prices higher than they were, and the South Florida Hospital Association or the Hospitals said, "Okay. You're preferred."

I take it that doesn't change your [p. 2247] opinion, does it?

A. Well, it is surprising, isn't it.

* * *

[p. 2958] Q. Okay.

Now, do you recall at this point in time exactly why certain agencies were selected and others were not?

A. (No response).

Q. And with that question I mean agency by [p. 2959] agency.

Do you remember what you thought about each of the specific agencies?

A. I don't remember details.

Q. Okay. What do you remember generally about?

A. I remember generally, as I indicated before, the availability of nurses, what part of the county the agencies were located in, what hospitals they currently serviced, their reputation, their willingness to make the nurses employees of the agency. I don't really remember a whole lot else.

Q. What about the price?

A. That was also a factor.

Q. Well, how big a factor was it? How important a factor was price in the selection of the preferred agencies?

A. Well, as I said before, we were hoping that the price would come down based on volume. But what happened, if I recall correctly, is that some of the agencies' prices were even higher than what they currently were providing nurses to the hospitals for, and I don't think that really was the deciding factor in the decision of what agencies we chose.

* * *

[p. 515] Q. Excuse me. I think I have the wrong letter. No. No.

Well, let me ask you this: Do you remember if the letter you are referring to expressed disappointment that

the initial bids that the agency received from, the South Florida Hospital Association received from the agencies, do you remember if it expressed disappointment that those prices or rates were higher than the hospitals had been paying?

A. Yes.

Q. Did that cause you to conclude that all they were caring about was price?

A. It appeared that way.

Q. They didn't care about quality, they didn't care about standards, they just wanted a lower price?

A. Right.

Q. And I think you said that you were the lowest cost bidder?

A. Yes.

Q. You went to the agency – let's clear that up – at your own request?

A. Uh huh.

[p. 516] Q. You asked them if you could see what the other agencies had bid, right?

A. Correct.

Q. You wanted to know that so you could tell if you should maybe adjust your bid and get into the negotiation better, right?

A. Uh huh.

Q. And you were the lowest cost bidder, correct?

A. Correct.

Q. And you weren't selected?

A. No.

Q. Did you know that they selected agencies, eight of them, whose bids were all higher than yours?

A. I had heard that.

Q. It is inconsistent, isn't it, that all they cared about was price, isn't it?

A. Correct.

* * *

[p. 1176] Q. Were you aware of whether all eight of the preferred agencies bid the same prices?

A. That we all bid the same?

Q. Yeah. Do you know whether you did or not? Did you ever get a chance to look at the bid sheets?

A. There was a time that we could go up there and look at them.

Q. Did you do that?

[p. 1177] A. Yes.

Q. Do you remember seeing if there were differences in price?

A. I think, yeah, there was.

* * *

[p. 2587] Q. Now, focusing again on the period during the preferred provider program, for those preferred

agencies with which you dealt do you have a sense of how their prices changed from the time just prior to the preferred provider program and the time during the preferred provider program?

A. Yes. The price went up.

* * *

[p. 1166] Q. Did you conclude that your nurses were getting a raise as a result of your having been made a preferred provider?

Mr. Powers: Objection, your honor. Beyond the scope.

The Court: Objection overruled.

By Mr. Allen:

Q. Go ahead.

A. That's how we were trying to look at it, yes. We were trying to show that by us paying their payroll taxes or social security that it was going to be more beneficial to them.

* * *

[p. 3899] A. Well, I didn't, I didn't expect anything substantially different than what happened because, as I said, when we, when we found out that there were eight bidders, that meant that there was going to be new competition in hospitals that we were serving. So we tried to go in and again compete for business within those hospitals that were part of the preferred provider program to try and gain market share relative to the other preferred provider agencies.

So that was very similar to what was happening before the program. We were still competing with agencies and, in addition, the hospitals were using a substantial amount of nonpreferred provider agencies. So it wasn't, it wasn't, there was no exclusivity about it. And the [p. 3900] program was in such, in such a, for such a short period of time that there was no, I don't think there was any possibility of any long-term effect and we certainly didn't see any long-term effect.

* * *

[p. 3901] Q. Okay.

Now, tell me, if you will, how the High Tech companies have changed, if they have, [p. 3902] since 1989.

A. Well, the staffing business has basically gone away. We were doing about a little over 2 million dollars in a year in 1988 in hospital and nursing home staffing and we're now doing about a half a million dollars a year. So that's gone down by a factor of 75 percent.

On the other hand, the private duty business, we're doing about 2.2 million dollars out of Private Care and we did, last year in 1994 we did 60,000 Medicare visits for a gross revenue of around 3 and a half million dollars.

So I think we're up to about, if I count that correctly, about 6 million to 6 and a half million dollars in revenues now. Very little of it is staffing.

* * *

[p. 774] Q. And you have made it in home care as an agency through talent, skill, management, recognizing your opportunities?

A. We are successful.

Q. And you are successful at it, aren't you?

A. Yeah, we are.

Q. Now, you said that today, something like this, and correct me if I misstated, you said staffing is down and everything is home care?

A. No. I said staffing is still there. We don't have the nurses to go there as much as we did in the past. Never will have. And home care is much more prevailing.

* * *

[p. 2703] Q. Okay. Now, in what areas of the country is this true that this trend toward, away from hospital staffing and towards home care has taken place?

A. Throughout the United States.

* * *

[p. 3901] Q. Okay.

Now, tell me, if you will, how the High Tech companies have changed, if they have, [p. 3902] since 1989.

A. Well, the staffing business has basically gone away. We were doing about a little over 2 million dollars in a year in 1988 in hospital and nursing home staffing and we're now doing about a half a million dollars a year. So that's gone down by a factor of 75 percent.

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So I think we're up to about, if I count that correctly, about 6 million to 6 and a half million dollars in revenues now. Very little of it is staffing.

* * *

[p. 1599] Q. And did you hear him testify that he started his business again, he shifted from hospital staff relief to private duty and home care?

A. Yes.

Q. Did you hear him testify that he thinks his business today is very valuable?

A. Did I hear him testify what?

Q. That – let me start again.

Did you hear him testify last week in this case that because of the preferred provider program, he had to refocus his efforts into private duty and home care?

A. Yes.

Q. And he was able to do that, wasn't he?

A. Yes.

Q. And today his business is very valuable, isn't it?

A. Yes. He said he was back up to two-thirds of what he had made before.

* * *

[p. 1769] As things kept developing that way – and, yes, I will never deny the fact that I went through a massive depressive episode. Because they [p. 1770] killed an identity of who I was and what this agency meant to

me. But I am here today after a great year of regrowth now, talking to you, functioning as a fantastic critical care nurse in Palm Beach County.

* * *

[p. 2249] Q. Sir, have you reached an opinion in this case about how many agencies there had to be out there supplying agency services to hospitals in Palm Beach County in order for supply and demand to [p. 2250] work well enough to reach the equilibrium point, yes or no?

A. I haven't reached an opinion at all about that. That market was competitive before. Entry was easy. Exit was easy. There were 70 agencies altogether.

If you look in the Palm Beach Yellow Pages today, you will still find 60 to 70 agencies being listed. Getting in and supplying that business has not been the problem. It's on the demand side where the problem existed.

* * *

[p. 3940] Again, we were, we were relatively pleased. We had our price increasing as becoming members of the preferred provider program, and if the bid prices for nurses got out of control, we [p. 3941] would have just opted out of the program if we would have needed to do so.

* * *

[p. 2838] Q. Would you read that for us, please?

A. "Eight," in parentheses, the numeral 8, "nursing agencies have been selected as our preferred providers. This was assembled by Palm Beach County nursing

administration with assistance by the South Florida Hospital Association. These eight agencies will be utilized first. If they cannot provide staffing, then we may go to other agencies as needed."

Q. Is that as fair representation as you understood it as to what the preferred provider program was going to do with regard to giving a preference to agencies?

A. Yes, sir.

* * *

[p. 4587] Q. – from an economic perspective is there any reason why the hospitals participating in the program would have an incentive to reduce or eliminate competition among those agencies?

A. Oh, no, they wouldn't have any incentive for two reasons.

In the first place, if you are a monopsony buyer, you're the only purchaser of the product, the one thing that you want to have is as many sellers as possible competing to sell to you so that you get the lowest possible price for the product that, that you buy. It doesn't matter whether you're a monopsony seller or whether you're in a competitive market. You want the greatest number of people competing to sell to you.

[p. 4588] The one thing you don't want to do is take the risk of having only one seller and have that seller now become a monopoly that is selling to you and has got as much power as you have but on the other side of it.

So that's the one thing you don't want to do, in addition to the fact that it's the one thing you couldn't

accomplish anyhow. And you can't accomplish this anyhow because even if you could drive, for some obscure reason you wanted to drive everybody else out of the market, the agencies out of the market, they'd just spring up again because entry into this market is virtually free.

Beyond that, why would the hospitals want to do something like – I mean, why would you want to do this?

The agencies are performing an important service. They are performing that service for the hospitals and they are performing that service for the nurses and ultimately they are performing the services for the consumer. so nobody wants to drive them out of the market.

* * *

[p. 2047] The Court: Okay. Go ahead.

Mr. Allen: Your honor, we will object to the series of exhibits coming into evidence now in two ways. First, we renew our motion to limit or bar the damages testimony which your honor has ruled on and been fully apprised of our position on it. We assume the same ruling, but we want to preserve the record.

Second, your honor, the exhibits that are about to be placed in evidence contain in them a lot of information about these companies' costs and revenues. There is no – there is unsatisfactory or no evidence in the record as a predicate upon which the witness could testify. The documents themselves that would support it are not in evidence. The evidence itself is not in.

Now, I understand that an expert is entitled to rely on matters in forming an opinion that are not admissible in evidence. I don't believe this is that situation. We are going to have instead on the actual evidence an expert's opinion that I have looked through the business records and this [p. 2048] is what they mean. I don't believe that's permissible. These exhibits contain his work, apparently, with documents that are not in evidence in the case. And they are business records of the plaintiffs.

We object to the entry of the damage models that are about to be presented on that basis.

* * *

DEFENDANTS' TRIAL EXHIBIT 32

NURSING PROGRAM LIAISON

POSITION: R.N. Liaison between area hospitals, Preferred Nursing Agency Program member staff and the S.F.H.A.

POSITION SUMMARY: Major areas of responsibility are:

- Meeting regularly with Directors of Nursing of both hospitals and agencies to assess program
- Promote the utilization of the program agencies with hospital staffing coordinator
- Respond to hospital concerns related to "agency nurses", in a timely manner, by:
  * identifying source of the problem
  * collecting data from both the hospital and agency related to the problem
- Assist the hospital and agencies in problem solving activities to rectify the identified problems

- Monitor to assure that the same problem does not reoccur, and/or develop processes to prevent similar problems from occurring
- Deal with immediate problems that would interrupt patient care services
- Record and report problems, potential problems and/or problem solving activities to SFHA
- Assist in the development and implementation of standardized procedures for the orientation of Temporary Nursing Personnel
- Assume the responsibility for sending/recruiting and evaluating agency RFP's

TIME ALLOTMENT: Commit to being in the Palm Beach area 4 days per week, and accessible by phone 6 days per week

When not accessible by phone will be accessible by beeper until 9 pm, 6 days per week

QUALIFICATIONS: Education –

- Florida Registered Nurse Licensure, minimum of baccalaureate degree preferred.

Experience –

- A minimum of three years hospital experience.
- Staff and supervisory experience preferred.
- Familiarization with the activities of nursing agencies useful.

Skills –

- Excellent inter-personal relationships.
- Ability to deal with complex problems.
- Able to assimilate data and problem solve.
- High level of communication skills, both verbal and written.

PLAINTIFFS' TRIAL EXHIBIT 1741
(EXCERPTS)

INVOICE NO.
14788

**INVOICE**

A COMPLETE HEALTH SERVICE, INC.
1500 S.E. 3RD COURT – SUITE 105
DEERFIELD BEACH, FL. 33441

**SOLD TO**

FLORIDA MEDICAL CENTER
5000 West Oakland Park Blvd.
Ft. Lauderdale, Fl. 33313

**SHIP TO**

PAGE 1 of 2

| CUSTOMER'S | ORDER | SALESMAN | DATE SHIPPED | TERMS | SHIPPED VIA | F.O.B. | DATE 5/16/88 |
|---|---|---|---|---|---|---|---|
| | | FOR THE WEEK ENDING 5/15/88 | | | | | |
| 5/9 | UNIT | HUNG VAN NGUYEN, R.N. | | | 12 hrs. | | 317.00 |
| 5/9 | TEL. | VICKI HUNTER, R.N. | | | 8½ hrs. | | 238.00 |
| 5/9 | TEL. | MARY JOHNSON, R.N. | | | 8 hrs. | | 216.00 |
| 5/9 | TEL. | PAT HARRIS, R.N. | | | 8 hrs. | | 216.00 |
| 5/9 | TEL. | PAULA FRIEND, R.N. | | | 7½ hrs. | | 202.50 |
| 5/9 | UNIT | PHYLLIS THOMPSON, R.N. | | | 8¼ hrs. | | 231.00 |
| 5/9 | UNIT | CLYDE SCOTT, LPN | | | 12 hrs. | | 281.00 |
| 5/9 | TEL. | HELEN STEPP, R.N. | | | 8 hrs. | | 216.00 |
| 5/9 | TEL. | SUE JOHNSON, R.N. | | | 8 hrs. | | 216.00 |
| 5/10 | UNIT | BEVERLY KLEINKNECHT, R.N. | | | 8 hrs. | | 208.00 |
| 5/10 | UNIT | HUNG VAN NGUYEN, R.N. | | | 12 hrs. | | 317.00 |

| CUSTOMER'S | ORDER | SALESMAN | DATE SHIPPED | TERMS | SHIPPED VIA | F.O.B. | DATE 5/16/88 |
|---|---|---|---|---|---|---|---|
| 5/10 | M/S | MARIA PAUL, LPN | | | 8 hrs. | | 116.00 |
| 5/10 | UNIT | PAULA FRIEND, R.N. | | | 8¼ hrs. | | 236.25 |
| 5/10 | TEL. | SUE JOHNSON, R.N. | | | 8¼ hrs. | | 222.75 |
| 5/10 | ER | DEBBIE MCCLAIN, R.N. | | | 8 hrs. | | 216.00 |
| 5/10 | UNIT | CLYDE SCOTT, LPN | | | 12 hrs. | | 281.00 |
| 5/10 | UNIT | PHYLLIS THOMPSON, R.N. | | | 8½ hrs. | | 238.00 |
| 5/11 | UNIT | BEVERLY KLEINKNECHT, R.N. | | | 8 hrs. | | 208.00 |
| 5/11 | UNIT | HUNG VAN NGUYEN, R.N. | | | 12 hrs. | | 317.00 |
| 5/11 | UNIT | PHYLLIS THOMPSON, R.N. | | | 8½ hrs. | | 238.00 |
| 5/11 | TEL. | ROXANNE MATTHEWS, R.N. | | | 7 hrs. | | 182.00 |
| 5/11 | UNIT | PAULA FRIEND, R.N. | | | 8½ hrs. | | 229.50 |
| 5/11 | M/S | JOANN WOODALL, R.N. | | | 9 hrs. | | 208.00 |
| 5/11 | UNIT | DEBBIE OHRT, R.N. | | | 8 hrs. | | 208.00 |
| 5/11 | UNIT | CLYDE SCOTT, LPN | | | 13¼ hrs. | | 327.25 |
| 5/12 | TEL. | HELEN STEPP, R.N. | | | 8¼ hrs. (CHRG.) | | 239.25 |
| 5/12 | UNIT | BEVERLY KLEINKNECHT, R.N. | | | 8 hrs. | | 208.00 |
| 5/12 | UNIT | BUD LOSEE, R.N. | | | 9 hrs. | | 243.00 |
| 5/12 | UNIT | PAULA FRIEND, R.N. | | | 8½ hrs. | | 229.50 |
| 5/12 | UNIT | CLYDE SCOTT, LPN | | | 12¼ hrs. (9½ OT) | | 420.38 |
| 5/12 | UNIT | PHYLLIS THOMPSON, R.N. | | | 8¼ hrs. | | 231.00 |
| 5/13 | UNIT | PHYLLIS THOMPSON, R.N. | | | 8 hrs. | | 248.00 |
| 5/13 | TEL. | HELEN STEPP, R.N. | | | 8¼ hrs. | | 222.75 |
| 5/13 | TEL. | PATRICIA BROWN, LPN | | | 8 hrs. | | 176.00 |
| 5/13 | TEL. | PAT HARRIS, R.N. | | | 8 hrs. | | 216.00 |

| CUSTOMER'S | ORDER | SALESMAN | DATE SHIPPED | TERMS | SHIPPED VIA | F.O.B. | DATE 5/16/88 |
|---|---|---|---|---|---|---|---|
| 5/14 | TEL. | HELEN STEPP, R.N. | | | 8 hrs. | | 240.00 |
| 5/14 | TEL. | PATRICIA BROWN, LPN | | | 8 hrs. | | 200.00 |
| 5/14 | M/S | JOANN WOODALL, R.N. | | | 12 hrs. | | 244.00 |
| 5/14 | TEL. | SUE JOHNSON, R.N. | | | 8 1/4 hrs. | | 247.50 |
| 5/14 | UNIT | KIM BRACKEN, R.N. | | | 16 hrs. | | 472.00 |
| 5/14 | TEL. | PAT HARRIS, R.N. | | | 8 hrs. | | 240.00 |
| 5/14 | UNIT | DEBRA VIOLET, R.N. | | | 8 hrs. | | 248.00 |
| 5/14 | TEL. | JEANNE ELLEN DONAGHY, R.N. | | | 8 hrs. | | 248.00 |
| 5/14 | UNIT | CLYDE SCOTT, LPN | | | 8 1/2 hrs. O.T. | | 318.75 |
| 5/15 | TEL. | HELEN STEPP, R.N. | | | 8 hrs. (1/2 hr. OT) | | 247.50 |
| 5/15 | TEL. | PATRICIA BROWN, LPN | | | 12 hrs. | | 296.00 |
| 5/15 | TEL. | ROSE MURPHY, LPN | | | 12 hrs. | | 296.00 |
| 5/15 | M/S | JOANN WOODALL, R.N. | | | 12 hrs. | | 244.00 |
| 5/15 | TEL. | SUE JOHNSON, R.N. | | | 8 1/4 hrs. | | 247.50 |
| 5/15 | UNIT | DEBRA VIOLET, R.N. | | | 12 hrs. | | 368.00 |
| 5/15 | TEL. | JEANNE ELLEN DONAGHY, R.N. | | | 12 hrs. | | 368.00 |
| 5/15 | M/S | DEBBIE MCCLAIN, R.N. | | | 8 hrs. | | 168.00 |
| 5/15 | UNIT | CLYDE SCOTT, LPN | | | 8 1/2 hrs. O.T. | | 344.25 |

TOTAL: $13,357.63

PLAINTIFFS' TRIAL EXHIBIT 1813

[LOGO]

**South Florida Hospital Association, Inc.**

REQUEST FOR PROPOSAL

The enclosed Request for Proposal is sent to you by The South Florida Hospital Association (hereinafter referred to as "Association"). The Association, in soliciting proposals is relying on; membership expression of the intent to purchase on the contract that results from this Request for Proposal, and the increasing awareness of the membership that maximum contract participation is essential to the success of the program.

Those individuals ultimately responsible for making pricing decisions are encouraged to call the Association offices (at 305-591-8020) with any questions pertaining to this request, membership commitment, etc.

Sincerely,

/s/ Chandler Bailey
Chandler Bailey
Vice President,
Planning & Development

FOR PALM BEACH COUNTY

Agencies are provided with a special envelope for submitting their original proposals and six (6) copies. Proposals should be delivered in person or by registered mail to the Association at the address above.

DATE: September 1, 1988 PROPOSAL NUMBER: #8802

DUE DATE: September 16, 1988 TIME DUE: 5 PM

PROPOSALS RECEIVED AFTER DUE DATE AND TIME WILL NOT BE ACCEPTED.

SERVICE BEING REQUESTED: HEALTHCARE PERSONNEL AGENCY SERVICES

CONTRACT PERIOD WILL BE FOR: 12 Months, Beginning October 17, 1988

---

8245 N.W. 53rd Street, Suite 200,
Miami, Florida 33166-4609
305/591-8020 (Dade), 305/522-3433
(Broward), FAX 305/591-8231

PROPOSAL DESCRIPTION AND CERTIFICATION

Proposal Specifications & Pricing Page:

See attached Pages for Complete Information

The Agency Must:

Invoice each hospital individually.

Look to each hospital for payment of their invoice and acknowledge in writing that the Agency understands that The South Florida Hospital Association is neither the guarantor nor the indemnitor nor makes any warranties, whatsoever, either as to any minimum aggregate volume of services utilized by the participating hospitals nor as to any other question involving the contractual relationship, which may arise between the agency and individual hospitals. Completion of the following Proposal Certification confirms the above acknowledgment.

Indemnify and hold harmless the Association and participating Hospitals against any and all suits, claims and expenses, including attorney's fees, damages and injuries or any claims by third parties relating to its services.

---

CERTIFICATION: It is hereby affirmed that this proposal has been completed in accordance with the terms and conditions set forth in this Request for Proposal and that the Agency will accept any awards made to it as a result of his response to this Request for Proposal.

Firm Name: _____

Address: _____ City _____ State _____ Zip _____

Authorized Signature: _____ Title: _____

Print Name: _____ Telephone (___) _____

(Signatures are also required on page 12)

PROPOSAL CONDITIONS AND INFORMATION

1) NUMBERED PARAGRAPHS: For the convenience of the vendors, each written paragraph in this Request for Proposal document has a specific number. If a Agency wishes to comment about any particular paragraph it should do so on a separate sheet of paper making sure to quote the specific paragraph number its comments refer to. The South Florida Hospital Association believes that the requirements of this Request for Proposal document are fair and equitable to the Agencies. However, agencies may comment on any paragraph so long as they do so IN WRITING AS PART OF THEIR RESPONSE TO THIS REQUEST FOR PROPOSAL.

2) COMPLETE ALL INFORMATION REQUESTED: Agencies must supply ALL information requested in this Request for Proposal.

3) THE ASSOCIATION RESERVES THE RIGHT to reject any or all proposals, any part of any proposal, or to request new proposals for all or any parts of the proposal as it deems necessary for the benefit of the Association and its membership.

4) EVALUATION FACTORS: The Association will evaluate proposals based on factors including, but not necessarily limited to, price. Considered factors are: strength of internal quality assurance program, acceptance of Agency of terms and conditions contained herein, cash terms, financial strength, service reputation, contents of written policy and procedure manual, etc.

5) CASH DISCOUNTS: Liberal cash discounts for members wishing to remit invoices in a more timely manner are ENCOURAGED, i.e. ____% 10, Net 30 days. (See page 11).

6) FUTURE ASSOCIATION MEMBERS: When new hospitals join the Association they will be eligible to immediately participate in the contract that results from this Request for Proposal.

7) ALL SERVICES RENDERED AS A result of this Request for Proposal will be subject to all conditions that are part of this Request for Proposal. It is further agreed that the proposals themselves and any resulting agreements to service shall comply with all Federal, State and Local laws relative thereto. It is further understood and agreed that the service for which quotes are requested and the Agency shall conform with any regulations of governmental agencies having jurisdiction at the time of delivery of such service. Without limiting the generality of the

foregoing, the Agency acknowledges and agrees that it is an independent contractor of each hospital that engages the Agency pursuant to this Request for Proposal and the Agency's response hereto, and nursing and other personnel who perform services at a hospital pursuant hereto are and for all purposes shall be deemed employees of the Agency. Such personnel in no event shall be employees of any hospital while performing services for which such hospital pays the Agency. The Agency shall withhold from compensation payable to such personnel, federal income tax, FICA and any other amounts required by law to be withheld by employers from compensation of employees, and remit all withheld amounts to the appropriate governmental agencies within the times provided by law. In addition, the Agency shall pay all employment and other taxes, fees or charges respecting such personnel payable by employers within the times provided by law. The Agency agrees to indemnify, defend and hold each hospital harmless from and against any and all claims, suits, liabilities, losses, damages and costs arising out of any breach by the Agency of the foregoing (including without limitation costs of settlement and appeal and attorneys' fees).

8) ACCESS OF THE GOVERNMENT TO BOOKS AND RECORDS: The final regulations regarding the government access to books and records provisions of the Medicare law were published in the December 30, 1982 of the Federal Register. Section 952 of the Omnibus Budget Reconciliation Act of 1980 (P.L. 96-499) contains certain language which legal counsel has advised providers to include in all contracts. Since Association request for proposals result in contracts between suppliers and Association members (providers), that language is included herein

and will be a part of any contract that results from this Request for Proposal:

> "I. Until the expiration of four years after the furnishing of SERVICES pursuant to this contract, the subcontractor shall make available upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the contract, and books, documents and records of such subcontractor that are necessary to certify the nature and extent of such costs; and
>
> II. If the subcontractor carries out any of the duties of the contract through a subcontract, with a value or cost of $10,000 or more over a 12 month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such SERVICES pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, all books, documents and records of such organization that are necessary to verify the nature and extent of such costs."

9) MEMBERS WILL CONTRACT DIRECTLY with the awarded Agency(ies). Members will remit payments directly to Agency(ies) after receipt of correct invoices. Members are encouraged to give priority

to the payment of invoices that are the result of participation on Association contracts.

10) EXISTING CONTRACTS WITH WINNING VENDOR: Any member with a preexisting contract with the winning Agency(ies) may switch immediately to the Association contract, without penalty, if in the best interests of that particular member.

11) THIRTY DAY CANCELLATION CLAUSE: In the event that the terms of the contract that results from this Request for Proposal are not being met by the awarded Agency(ies) and/or poor performance, the Association may give 30 days notice of the INTENT to terminate the contract. If, after 30 days notice is given, the unfulfilled terms of the contract are not met, termination of the contract WILL take place.

12) CORRESPONDENCE: The winning Agency(ies) is requested to "copy" the Association offices when any general correspondence pertaining to the contract that results from this Request is mailed to the membership.

## PARAGRAPHS SPECIFIC TO THIS REQUEST FOR PROPOSAL

13) POSSIBLE MULTIPLE CONTRACTS: The Association reserves the right to award contracts to multiple Agencies as a result of this Request for Proposal. Every effort will be made to consolidate the number of awards made as a result of this RFP, based on all criteria requested and supplied by the respondents.

14) AGREEMENT PERIOD: Any contracts that result from this Request for Proposal will be in force for a period of one year, beginning *October 3, 1988.*

15) PRICE PROTECTION: All contract(s) resulting from this Request for Proposal will provide 12 months

pricing, beginning with the effective date of the contract(s).

16) MEMBER COMMITMENT TO CONTRACT(s): Page 21 contains a listing of member hospitals who have signed a commitment letter to utilize the awarded Agency(ies) on a preferred basis, as a result of this Request for Proposal. Commitment letters are signed by the Nursing Administrator and the Hospital Administrator. Agencies should see this as an indication of the level of support at each participating hospital. Commitment is defined as the priority use of the awarded agency(ies). In the event the awarded agency(ies) cannot fulfill a member request for services in a timely manner, the participating member may seek and retain the services of a non-contracted agency(ies). Each member hospital has the right to refuse the placement of particular individuals by the awarded agencies for any reason or no reason.

If an awarded Agency(ies) fails to perform as outlined in the Request's terms and conditions, the involved Hospital may, at its option, declare its commitment null and void for that particular agency(ies).

17) ESTIMATED VOLUMES: The volumes indicated on page 20 is an estimate only AND should not be construed as a volume guarantee, either expressed or implied. Usage information was obtained from surveys of participating hospitals and are submitted for informational purposes only.

18) HISTORY OF AGENCY: Each Agency will provide a detailed history of Agency, addressing year started, corporate structure, delineation of principals, staffing, corporate financial statements for the last two fiscal years (which shall be audited, if available), location of corporate and branch offices, affiliates,

pending or prior bankruptcy, insolvency or similar proceedings to which the Agency, or any principal or affiliate thereof is or was a party, and any pending or prior criminal proceedings against the Agency or any principal or affiliate thereof.

19) HIRING AND RECRUITMENT OF HOSPITAL/AGENCY PERSONNEL: Because of the relationship between each Association member (referred to below as a "Hospital") and its nursing personnel, and the time, effort and cost involved in recruiting and training nursing personnel, the following paragraph is set forth herein and must be part of any contract that results from this Request for Proposal:

Recognizing (i) the special nature of the relationship existing, or which will exist, between the Hospital and the nursing personnel which it employs, and (ii) that the recruiting and training of personnel by the Hospital is a costly and time consuming endeavor, the Agency agrees that it will not, during the term or any renewals hereof, or for a period of six (6) months following termination of this Agreement, directly or indirectly, through any manner or means, impair or initiate any attempt to impair the relationship that exists between the Hospital and nursing personnel employed by the Hospital through offers of employment, offers of contracts for services to be rendered by such personnel, offers to arrange permanent or temporary, full or part time placement of such personnel at hospitals or other health care providers, or otherwise; provided that the Agency shall not be prohibited from employing nursing personnel who solicit such employment otherwise than as a result of Agency actions described in the preceding clause. Without limiting other possible remedies that may be available for a breach of this covenant, the Agency agrees that in the event of a breach or

threatened breach of this covenant, the involved hospital may immediately terminate its contract with the Agency and that injunctive or other equitable relief shall be available to enforce this covenant, such relief to be without the necessity of posting a bond, cash or otherwise. The Agency further agrees that if any restriction in this paragraph is held by any court to be unenforceable or unreasonable, such lesser restriction as shall give maximum effect to the intentions of the parties shall be enforced in its place and remaining restrictions shall be enforced independently of each other.

20) USAGE REPORTS: Awarded vendor(s) will submit to the Association offices a usage report for each participating hospital on a form provided by the Association. It will include the following data elements:

Monthly (due on the 25th of the following month) a. total nursing hours supplied by classification, b. total hours requested by hospital, c. total hours unable to fill, d. hospital cancellations of assigned shifts, e. agency cancellations of assigned shifts, f. gross dollar volume billed, g. weekend shifts requested and weekend shifts filled, h. holiday shifts requested and holiday shifts filled. i. total hours requested by shift and total hours filled by shift.

Quarterly – (due on the 25th of the month following the quarter) a. Quality Assurance report which will include disciplinary proceedings, medication errors, etc. b. Continuing Education reports – compilation of all continuing education classes attended

21) DISCIPLINARY PROCEEDINGS: Awarded Agency (ies) will investigate any offense/complaint immediately. A written report, stating the investigative findings and Agency action, will be filed with the

hospital, within 10 working days following the completion of the investigation. For offenses/complaints which, in the hospitals opinion, creates ill-will towards that institution, the affected hospital will *not* be billed for the agency employee and the shift(s) involved. For offenses resulting in a State Board of Nursing hearing, all investigative and hearing expenses will be borne by the awarded Agency(ies). Hospitals will cooperate and provide the Agency with written documentation of verifiable offenses and other information as required to conduct the disciplinary hearing.

22) BUSINESS LICENSE: Each Agency must submit, with this proposal, a copy of their most current business license.

23) POLICY AND PROCEDURE MANUAL: Each Agency must submit, with this proposal, a copy of their most recent and reviewed policy and procedure manual. This manual will be reviewed by a screening committee and will play an integral part in the selection and award of resulting contracts. Each manual should include policies relating to disciplinary procedure, licensure, screening tests, references, quality assurance, infection control, and penalties imposed on nurses for terminating employment at the Agency and commencing employment with a hospital (into which the nurse was placed or otherwise).

24) CANCELLATION POLICY: A two (2) hour notice is required for cancellation, either by a participating Hospital OR Agency. Failure to provide such notice, by either party, WILL result in a cancellation penalty charge of two (2) times the affected hourly rate. Agency penalty charges will be reflected as a "credit" in the invoice immediately following the cancellation. Hospital charges will be invoiced as usual.

25) THE FOLLOWING DOCUMENTATION MUST BE SUBMITTED to each participating Hospital by the awarded Agency(ies) for all healthcare personnel:

- Proof of current licensure in State of Florida

  Minimum of two professional references (on file at the agency and available for member review on request)

  Proof of minimum one (1) years experience in an acute care setting within the most current three year period.

- Proof of current/valid CPR certification with annual review and annual inservice education in fire, safety and infection control (including universal precautions).

  Proof of compliance with immigration laws, if applicable (provided upon request).

- Current health history, including record of immunizations, current PPD (within 1 year) and physical limitations

- Additional documentation is required to show proof of special skills. Copies of *each exam and the acceptable passing scores* must be submitted to the hospital.

  NOTE: Copies of the asterisked criteria or other requirements of individual hospitals must be provided to each participating hospital, *prior* to the personnel being assigned.

26) IN-HOUSE ORIENTATION OF ALL AGENCY PERSONNEL is required by all participating hospitals and will entail review of individual hospital policy and procedures. All orientation expenses (to a minimum of 16 hours) *will* be borne by the Agency(ies).

27) DRESS CODE: Awarded Agency(ies) will communicate to and ensure all personnel meet the dress code requirements of each participating hospital.

28) AGENCY INVOICING: All invoices shall contain the following information by specific hospital unit: a. Nurses name b. Shift c. hourly rate and differential, if any d. overtime, if any e. additional charges itemized, if any. Invoices will be numbered. Participating Hospitals will have 14 calendar days from the receipt of the invoice for verification of said invoice.

29) THE ASSOCIATION RESERVES THE RIGHT to audit the awarded Agency(ies) for verification of the required documentation. Audits can be conducted at any time and without prior notification.

30) INSURANCE: Vendor(s) are required to purchase and maintain the following types of coverages:

a) Workers compensation and Employers Liability – covering the Agency's legal and statutory obligations for damages due to bodily injuries, either by accident or disease, occurring to Agency's employees, agents or servants as result of employment.

b) General liability – covering the Agency, its agents, employees, and servants for bodily injury, personal injury, or property damage claims of the public arising out of the premises, products, activities of the Agency. Minimum limits of liability for the above coverage shall be $1,000,000 combined single limit for bodily injury and property damage.

c) Professional liability – covering the Agency, its agents, employees, and servants for bodily injury and personal injury claims of

patients arising out of medical care rendered by the Agency. In the event the aforementioned coverage is through a "claims made" policy of insurance, the Agency hereby warrants that in the event the policy is either cancelled, replaced or non-renewed, the Agency will exercise the extended reporting option, commonly known as "tail coverage". Minimum limits of liability for the above coverage shall be $1,000,000 each incident/policy aggregate.

d) Automobile Liability (for those Agencies who will provide personnel for home care) – covering the Agency, its agents, employees, or servants for property damage and bodily injury claims of the public arising out of the ownership, maintenance, or use of vehicles, either owned, non-owned, or hired. Minimum limits of liability for the above coverage shall be $1,000,000 each accident.

Certificates of insurance for all above policies, listing the Association as Certificate Holder, must be supplied prior to contract initiation.

31) REPRESENTATION: The awarded Agency(ies) *agreed* not to use, either implied or expressed, the name of the South Florida Hospital Association, or any member institution, in connection with any advertising (whether print or electronic), public relations or recruitment efforts.

32) ASSOCIATION INVOLVEMENT: The Association is prepared to work closely with the awarded vendor(s), providing marketing and communications support, on a regular basis. Vendor(s) may contact the Association offices for assistance in resolving problems, member communications, etc.

VENDORS ARE REQUIRED TO ANSWER THE FOLLOWING QUESTIONS:

1) For the first quarter of 1988, list below the total number of hours assigned & worked at acute care facilities for each classification (list each hour only once):

| | 7-3 | 7-7 | 3-11 | 7-7 | 11-7 |
|---|---|---|---|---|---|
| R.N. Med-Surg | ___ | ___ | ___ | ___ | ___ |
| R.N. Critical Care (adult) | ___ | ___ | ___ | ___ | ___ |
| R.N. Dialysis | ___ | ___ | ___ | ___ | ___ |
| R.N. ER | ___ | ___ | ___ | ___ | ___ |
| R.N. Orthopedics | ___ | ___ | ___ | ___ | ___ |
| R.N. Surgery | ___ | ___ | ___ | ___ | ___ |
| R.N. Recovery | ___ | ___ | ___ | ___ | ___ |
| R.N. Oncology | ___ | ___ | ___ | ___ | ___ |
| R.N. Psychiatric | ___ | ___ | ___ | ___ | ___ |
| R.N. Pediatric ICU | ___ | ___ | ___ | ___ | ___ |
| R.N. Neonatal ICU | ___ | ___ | ___ | ___ | ___ |
| R.N. CVICU | ___ | ___ | ___ | ___ | ___ |
| R.N. Nursery | ___ | ___ | ___ | ___ | ___ |
| R.N. Pediatrics | ___ | ___ | ___ | ___ | ___ |
| R.N. Labor/Delivery | ___ | ___ | ___ | ___ | ___ |
| R.N. Postpartum | ___ | ___ | ___ | ___ | ___ |
| R.N. Telemetry | ___ | ___ | ___ | ___ | ___ |
| R.N. Medical Rehab. | ___ | ___ | ___ | ___ | ___ |
| R.N. Home Health | ___ | ___ | ___ | ___ | ___ |

| | | | | | |
|---|---|---|---|---|---|
| R.N. Nursing Home | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Med-Surg | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Critical Care | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Psychiatric | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Medical Rehab. | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Home Health | ___ | ___ | ___ | ___ | ___ |
| L.P.N. Nursing Home | ___ | ___ | ___ | ___ | ___ |
| Nursing Assistants | ___ | ___ | ___ | ___ | ___ |
| C.O.R.T. (OR Tech.) | ___ | ___ | ___ | ___ | ___ |
| Unit Secretaries | ___ | ___ | ___ | ___ | ___ |

## VENDOR QUESTIONS CONT'D

2) Describe in detail the Agency's skills verification process for its staff:

_____

_____

_____

_____

3) Enter minimum shift requirements (if any): _____

4) **CREDIT TERMS**: _____% 10 Days Net 30

5) List by percentage (%) the Agencies geographic coverage:

| | |
|---|---|
| North Palm Beach County | _____% |
| South Palm Beach County | _____% |
| Central Palm Beach County | _____% |
| West Palm Beach County | _____% |
| Outside of Palm Beach County | _____% |
| | 100% |

6) State office coverage and staffing provided (i.e., 7 day/24 hour "live" operators, level of supervisory personnel___):

_____

_____

_____

_____

Use additional pages, if necessary.

## ADMINISTRATIVE FEE

The awarded vendor agrees to remit to The South Florida Hospital Association an Administrative Fee in the amount of two percent (.02) of the gross dollar volume of all participating hospitals, under the agreement/contract that results from this Request for Proposal. Such remittance is to be paid monthly and submitted with usage reports identifying total volume b, hospital, by month. The Association's policies and procedures with regard to Administrative Fees are in strict accordance with Subsection 1877(b)(3)(A). Public Law 195-142, Medicare/Medicaid Anti-Fraud and Abuse Amendment.

AGENCY:_____

AUTHORIZED
SIGNATURE:_____

PRINT NAME:_____

TITLE:_____

PHONE NUMBER:(  )_____

DATE:_____

THE SOUTH FLORIDA
HOSPITAL ASSOC.
8245 N.W. 53rd STREET – SUITE 200
MIAMI, FLORIDA 33166-4609

RFP# : 8802
DESC : HPAS
DUE : 9/16/88
PAGE # 13

| | | NURSING RATES – PER HOUR | | |
|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M-F | SAT/SUN | HOLIDAYS |
| R.N. MED/SURG | 7-3 | | | |
| | 7-7 | | | |
| | 3-11 | | | |
| | 7-7 | | | |
| | 11-7 | | | |
| R.N. CRITICAL CARE | 7-3 | | | |
| | 7-7 | | | |
| | 3-11 | | | |
| | 7-7 | | | |
| | 11-7 | | | |
| R.N. TELEMETRY | 7-3 | | | |
| | 7-7 | | | |
| | 3-11 | | | |
| | 7-7 | | | |
| | 11-7 | | | |
| R.N. OPERATING ROOM/R.R. | 7-3 | | | |
| | 7-7 | | | |
| | 3-11 | | | |
| | 7-7 | | | |
| | 11-7 | | | |

| | | | | |
|---|---|---|---|---|
| R.N. DIALYSIS | 7-3 | _____ | _____ | _____ |
| | 7-7 | _____ | _____ | _____ |
| | 3-11 | _____ | _____ | _____ |
| | 7-7 | _____ | _____ | _____ |
| | 11-7 | _____ | _____ | _____ |

[Similiar Pages 14 Through 19 Omitted]

THE SOUTH FLORIDA
HOSPITAL ASSOCIATION
8245 N.W. 53 STREET, SUITE 200
MIAMI, FLORIDA 33166-4609

RFP#: 8802
DESC: HPAS
DUE: 9/16/88
PAGE: 20

## MEMBER HOSPITALS PARTICIPATING IN PROGRAM

Page 21 contains a listing which represents those member hospitals which have committed to participate in the Association's preferred nursing agency contract. Other member hospitals have indicated an interest to consider the selected agencies and participate at a later date. The hospitals listed used approximately 275,000 hours of temporary nurse staffing in calendar year 1987. The Association expects that figure to be greater during the contract period, because of the overall nursing supply problem in South Florida.

SOUTH FLORIDA HOSPITAL ASSOCIATION – 591-8020

ROSTER OF HOSPITALS PARTICIPATING IN HEALTHCARE PERSONNEL AGENCY SERVICES

PALM BEACH COUNTY

| NAME OF INSTITUTION | ADDRESS | CITY, ZIP | TELEPHONE | BEDS |
|---|---|---|---|---|
| Bethesda Memorial Hospital | 2815 S. Seacrest Blvd. | Boynton Beach, 33435 | (407) 737-7733 | 330 |
| Delray Community Hospital | 3332 Linton Blvd. | Delray Beach, 33443 | (407) 498-4440 | 211 |
| Doctors Hospital/Lake Worth | 2829 Tenth Avenue, N. | Lake Worth, 33460 | (407) 967-7800 | 200 |
| Good Samaritan Hospital | Flagler Drive at Palm Beach Lake Blvd. | West Palm Beach, 53402 | (407) 655-3311 | 285 |
| John F. Kennedy Mem. Hosp. | South Congress Avenue | Lake Worth, 33460 | (407) 965-7300 | 369 |
| AMI Palm Beach Garden | 3360 Butte Road | Palms Beach Gardens, 33410 | (407) 622-1411 | 204 |
| Palms West Hospital | 13001 State Road 80 | Loxahatchee, 33470 | (407) 798-3300 | 117 |
| Wellington Reg. Med. Ctr. | 10010 Forest Hill Blvd. | West Palm Beach, 33414 | (407) 798-8501 | 120 |
| West Boca Medical Center | 21644 State Road F | Boca Raton, 33428 | (407) 488-8000 | 170 |

Other hospitals in Palm Beach may elect to participate at a later date.

PLAINTIFFS' TRIAL EXHIBIT 1820

"CREATING A PREFERRED NURSING AGENCY"
BY CHANDLER BAILEY

**Creating a Preferred Nursing Agency**

by

Chandler Bailey

Vice President
South Florida Hospital Association

There's no need to rehash the data; there *is* a shortage of nurses. It's acutely felt by the hospitals in South Florida, and so it logically becomes an issue for the South Florida Hospital Association to address.

The Association is a nonprofit organization that represents approximately 50 member hospitals in Broward, Dade and Monroe counties. Among its major purposes are education, representation and advocacy.

An Association Nursing Task Force made up of hospital administrators, directors of nursing, directors of human resources, and nursing educators took on the nurse shortage issue in the spring of 1988. Among the other things they found was this telling statistic: Hospitals in Dade and Broward counties spend about $35 million annually on temporary nursing services.

That figure was increasing each year as was the average cost paid for each nurse. In addition, many hospital nursing administrators expressed concern over the coordination and quality of these temporary nursing services.

While looking at long-term solutions for the nurse shortage problem, the Task Force decided it must look at

this short-term solution that most hospitals were using. In order to address the cost and quality issues, the Task Force considered two distinct possibilities.

1. Reactivating the SFHA-owned and operated nursing agency that was created in the late 70s.

2. Establishing a preferred agency network with existing independent nursing agencies.

The SFHA Board of Directors chose the latter path, and so staff began the work required to establish such a network.

**From the hospital's perspective**

A committee made up of hospital nursing directors worked with staff to develop the first major step for the program – a request for proposal to be completed by interested agencies. Looking at the process from the hospital's perspective, the committee addressed the conditions and terms that hospitals would expect the agencies to meet.

Discussions and concerns centered around:

1. Quality

2. Continuity of nursing care

3. Pricing

4. Independent contractor vs. employee relationship

Because of recent federal regulations, the committee insisted that nurses should have an employer/employee relationship with the independent agency. This would preclude any interpretation that a nurse had become an

employee of the hospital for which he or she was working.

The quality and continuity of care issues were addressed in specific sections of the request for proposal. Those sections called for clear policies and procedures that addressed:

- documentation of nurses' experience
- copies of tests given to nurses
- passing scores
- periodic evaluation of nurses
- procedures to determine licensing status, such as probation
- CPR certification
- reports on CEU credits.

And because of the volume of business the members of the preferred network were likely to get, the RFP process itself which included bids, was expected to bring in extremely competitive prices.

Thorough review of the proposed request for proposal by the Association's attorneys also became part of the development process. Before completing the RFP, the Association requested legal counsel's opinion on a number of issues, including any possible antitrust implications of the program. On receiving counsel's favorable opinion, work proceeded.

**Hospitals express interest**

At the same time, the Association sought to determine its members' interest in participating in a preferred

nursing agency network. At least 20 hospitals initially made a commitment to work with the new network. To date, 24 hospitals in Dade and Broward counties have signed up.

Once the RFP was approved and a substantial number of hospitals had made a commitment of interest in the network, it was time to begin seeking the agencies to participate.

The mailing list for agencies to receive the RFP was recommended by member hospitals. These were the agencies they knew about or worked with or agencies that they knew had experience working with hospitals. In addition, "invitation to bid" notices were placed in the major Dade and Broward newspapers. About 40 agencies serving the two counties were mailed the RFP; about 15 responded.

**Selection process thorough**

An association committee of nursing service directors and human resources directors reviewed those responses and suggested that proposals be returned to selected vendors. Those vendors were requested to review their prices.

After completion of this step, selected agencies were invited to send representatives in for interviews with the committee. The purpose of these interviews was to examine more closely the quality of care issue and the agencies' routine methods of addressing it. They were questioned regarding methods of staff selection, the types

of nurse specialities, and frequency of staff evaluations as well.

Seven agencies in Dade and Broward counties became the first members of the SFHA preferred agency network.

**Program expands**

In Palm Beach County, a similar process was taking place. Hospital directors of nursing concerned about the $8 1/4 million spent on temporary nursing services were joining together to create a program. Learning of the SFHA activity in Broward and Dade, they contacted the Association.

The Association staff worked with them, adapting the process and the request for proposal to suit their needs. About 35 agencies received the RFP, and eight were selected to be part of the Palm Beach program. At the same time, 12 hospitals signed up to participate, each becoming an Associate Member of the SFHA in order to receive this service.

So today the South Florida Hospital Association is administering two preferred nursing agency programs; one in Palm Beach county and one for Broward and Dade county hospitals. What are our major concerns and our plans for the future?

**Agencies made commitment**

Our first concern is that both of these networks become strong, viable entitles, receiving the full support and commitment of the hospitals in the Association.

There are long-term alliances between hospital staffing offices and agencies with which they have worked. If those agencies chose not to participate or were not chosen, the change to the new, preferred agencies may not be easy.

At the same time, agencies not a part of the program may slash their prices in order to underbid those in the preferred program. This "Cherry picking" is easy to do after the fact.

We intend to emphasize to our hospitals that the agencies that chose to participate in our RFP process and were chosen to become part of our program have made a serious and substantial commitment to our hospitals.

1. They have agreed to hold prices for one year.

2. They have fulfilled our requirements for quality assurance, staff selection and training, and evaluations.

3. They have agreed to an employer/employee relationship with their nurses working in our hospitals.

The importance of this last commitment (although beyond the purview of this article) cannot be overemphasized. Suffice it to say, that new federal regulations put hospitals at risk of becoming liable for benefits and other obligations for independent contractors who begin to "look" like regular employees. The agencies in the SFHA preferred program have accepted an employer relationship and free hospitals of that risk.

In future years, we hope the program will help reduce prices paid for temporary nursing services. At this

point, after numerous price increases as the nursing shortage increased, the program stabilizes prices. However, that in itself is an accomplishment.

**To support Center for Health Careers**

One of our major hopes for the program is that it will assist us in seeking out long-term solutions to the nurse shortage. It will do that through the 2 percent administrative fee that is part of the program. The 2 percent fee is paid to the Association by each participating agency. The money collected will be used to support our Center for Health Careers, which is seeking new, innovative ways to increase the supply of nurses in South Florida.

In its first project, a media advertising campaign, the Center directly reached more than 1,100 young persons interested in nursing. Targeted to young adults, the $50,000 advertising campaign asked them to call for more information about nursing. In about six weeks, more than 1,100 had inquired and had received pertinent information, including the information needed to contact local colleges of nursing regarding admission. Some exceptional students were also put in contact with hospitals that provide scholarships.

With the 2 percent administrative fee from the preferred agency program, the SFHA plans to continue to seek ways to work with colleges and the local community to increase our long-term supply of nurses.

**Reviewing the process**

The SFHA has just completed the first request for proposal/bidding process and selection of agencies, so it's premature to thoroughly evaluate the program. When we do we will have two distinct processes to evaluate – the Dade/Broward model and the Palm Beach model. We may find that one or the other works better or brings about stronger commitment to the program.

One recommendation for change that we can make at this point, however, is that the selection process begin earlier in the year. South Florida's seasonal fluctuation in the need for nurses was moving towards its peak at the time the bidding took place. If it were moving towards its ebb, then pricing might have been more favorable for the hospitals.

The developmental work has been extremely time consuming. The request for proposal alone was a 19-page document, taking months to develop. In addition, there was confusion and some consternation among agencies who were not on the original list to receive the RFP. All agencies that requested it in time, however, were mailed a copy and eligible to participate.

Although the initial price savings for hospitals has not been as great as hoped, we are confident that we have achieved price stabilization through a fair, open process. With continued promotion, agency participation, and hospital support, we believe the SFHA Preferred Nursing Agency Program will be a resounding success.

* * *

Plaintiffs' Trial Exhibit 1831

TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| | | PRN (OLD) | | PRN (NEW) | | Medex, Inc. | |
|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/SUN | M – F | SAT/SUN | M – F | SAT/SUN |
| – RNs – | | | | | | | |
| MED / SURG | 7 - 3 | $26.50 | $28.95 | $25.50 | $27.50 | $26.50 | $29.95 |
| | 7 - 7 | $27.50 | $28.95 | $25.50 | $27.50 | $27.32 | $29.95 |
| | 3 - 11 | $27.50 | $28.95 | $27.50 | $28.50 | $28.95 | $29.95 |
| | 7 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | $28.95 | $29.95 |
| | 11 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | $28.95 | $29.95 |
| CRITICAL CARE | 7 - 3 | $34.50 | $36.95 | $33.25 | $35.50 | $32.95 | $35.95 |
| | 7 - 7 | $34.50 | $36.95 | $33.25 | $35.50 | $33.50 | $35.95 |
| | 3 - 11 | $35.95 | $36.95 | $35.95 | $36.95 | $34.50 | $35.95 |
| | 7 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | $34.50 | $35.95 |
| | 11 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | $34.50 | $35.95 |
| TELEMETRY | 7 - 3 | $34.50 | $36.95 | $31.95 | $33.95 | $32.95 | $35.95 |
| | 7 - 7 | $34.50 | $36.95 | $31.95 | $33.95 | $33.50 | $35.95 |
| | 3 - 11 | $35.95 | $36.95 | $32.95 | $34.50 | $34.50 | $35.95 |
| | 7 - 7 | $36.95 | $36.95 | $32.95 | $34.50 | $34.50 | $35.95 |
| | 11 - 7 | $36.95 | $36.95 | $33.50 | $35.50 | $34.50 | $35.95 |
| O.R. | 7 - 3 | $34.50 | $36.95 | $33.25 | $35.50 | | |
| | 7 - 7 | $34.50 | $36.95 | $33.25 | $35.50 | | |
| | 3 - 11 | $35.95 | $36.95 | $35.95 | $36.95 | | |
| | 7 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | | |
| | 11 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | | |
| PEDIATRIC | 7 - 3 | $26.50 | $28.95 | $33.25 | $35.50 | | |
| | 7 - 7 | $27.50 | $28.95 | $33.25 | $35.50 | | |
| | 3 - 11 | $27.50 | $28.95 | $35.95 | $36.95 | | |
| | 7 - 7 | $28.95 | $28.95 | $36.95 | $36.95 | | |
| | 11 - 7 | $28.95 | $28.95 | $36.95 | $36.95 | | |
| PSYCHIATRIC | 7 - 3 | $26.50 | $28.95 | $25.50 | $27.50 | $32.95 | $35.95 |
| | 7 - 7 | $27.50 | $28.95 | $25.50 | $27.50 | $33.50 | $35.95 |
| | 3 - 11 | $27.50 | $28.95 | $27.50 | $28.95 | $34.50 | $35.95 |
| | 7 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | $34.50 | $35.95 |
| | 11 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | $34.50 | $35.95 |
| LABOR/DELIVERY | 7 - 3 | $26.50 | $28.95 | $25.50 | $27.50 | | |
| | 7 - 7 | $27.50 | $28.95 | $25.50 | $27.50 | | |
| | 3 - 11 | $27.50 | $28.95 | $27.50 | $28.95 | | |
| | 7 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | | |
| | 11 - 7 | $28.95 | $28.95 | $28.95 | $28.95 | | |

| | | PRN (OLD) | | PRN (NEW) | | Medex, Inc. | |
|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN |
| NEO – ICU | 7 - 3 | $34.50 | $36.95 | $33.25 | $35.50 | $32.95 | $35.95 |
| | 7 - 7 | $34.50 | $36.95 | $33.25 | $35.50 | $33.50 | $35.95 |
| | 3 - 11 | $35.95 | $36.95 | $35.95 | $36.95 | $34.50 | $35.95 |
| | 7 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | $34.50 | $35.95 |
| | 11 - 7 | $36.95 | $36.95 | $36.95 | $36.95 | $34.50 | $35.95 |
| | | ALL HOLIDAYS ARE BILLED AT 1.33 | | | | | |
| - LPNs - | | | | | | | |
| HOME HEALTH | 7 - 3 | $20.00 | $21.75 | $19.50 | $20.95 | | |
| | 7 - 7 | $20.00 | $21.75 | $19.50 | $20.95 | | |
| | 3 - 11 | $21.00 | $21.75 | $21.00 | $21.75 | | |
| | 7 - 7 | $21.75 | $21.75 | $21.75 | $21.75 | | |
| | 11 - 7 | $21.75 | $21.75 | $21.75 | $21.75 | | |
| MED – SURG | 7 - 3 | $21.75 | $22.50 | $20.95 | $21.95 | $21.95 | $25.95 |
| | 7 - 7 | $21.75 | $22.50 | $20.95 | $21.95 | $22.65 | $25.95 |
| | 3 - 11 | $21.75 | $22.50 | $21.75 | $22.50 | $23.95 | $25.95 |
| | 7 - 7 | $22.50 | $22.50 | $22.50 | $22.50 | $23.95 | $25.95 |
| | 11 - 7 | $22.50 | $22.50 | $22.50 | $22.50 | $23.95 | $25.95 |
| NURSING HOME | 7 - 3 | $20.25 | $21.00 | $20.25 | $20.95 | | |
| | 7 - 7 | $20.25 | $21.00 | $20.25 | $20.95 | | |
| | 3 - 11 | $20.25 | $21.00 | $20.25 | $21.00 | | |
| | 7 - 7 | $21.00 | $21.00 | $21.00 | $21.00 | | |
| | 11 - 7 | $21.00 | $21.00 | $21.00 | $21.00 | | |

TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| CLASSIFICATION | SHIFT | Atlantic (OLD) M – F | Atlantic (OLD) SAT/SUN | Atlantic (NEW) M – F | Atlantic (NEW) SAT/SUN | Florida Nurses Network M – F | Florida Nurses Network SAT/SUN | (OLD) Expicare Nursing M – F | (OLD) Expicare Nursing SAT/SUN |
|---|---|---|---|---|---|---|---|---|---|
| – RNs – | | | | | | | | | |
| NEO / SURG | 7 - 3 | $27.70 | $30.80 | $25.80 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $28.25 | $30.80 | $26.30 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 3 - 11 | $29.25 | $30.80 | $27.30 | $28.80 | $27.31 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $29.25 | $30.80 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| | 11 - 7 | $29.25 | $30.80 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| CRITICAL CARE | 7 3 | $35.40 | $38.50 | $33.35 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | 435.95 | $38.50 | $33.85 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 3 - 11 | $36.95 | $38.50 | $34.85 | $36.40 | $32.47 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $33.97 | $35.48 | $31.. | $34.50 |
| | 11 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $33.97 | $35.48 | $31.50 | $34.50 |
| TELEHEIRY | 7 - 3 | $35.40 | $38.50 | $33.35 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $35.95 | $38.50 | $33.85 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 3 - 11 | $36.95 | $38.50 | $34.85 | $36.40 | $32.47 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $33.97 | $35.48 | $31.50 | $34.50 |
| | 11 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $33.97 | $35.48 | $31.50 | $34.50 |
| O.R. | 7 - 3 | $35.40 | $38.50 | $33.35 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $35.95 | $38.50 | $33.85 | $36.40 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 3 - 11 | $36.95 | $38.50 | $34.85 | $36.40 | $32.47 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $33.97 | $35.48 | $31.50 | $34.50 |
| | 11 - 7 | $36.95 | $38.50 | $34.85 | $35.40 | $33.97 | $35.48 | $31.50 | $34.50 |
| PEDIATRIC | 7 - 3 | $35.40 | $38.50 | $25.80 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $35.95 | $38.50 | $26.30 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 3 - 11 | $36.95 | $38.50 | $27.30 | $28.80 | $27.31 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $36.95 | $38.50 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| | 11 - 7 | $36.95 | $38.50 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| PSYCHIATRIC | 7 - 3 | $27.70 | $30.80 | $25.80 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $28.25 | $30.80 | $26.30 | $28.80 | $25.81 | $28.81 | $27.00 | $30.00 |
| | 3 - 11 | $29.25 | $30.80 | $27.30 | $28.80 | $27.31 | $28.81 | $27.00 | $30.00 |
| | 7 - 7 | $29.95 | $30.80 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| | 11 - 7 | $29.25 | $30.80 | $27.30 | $28.80 | $28.81 | $28.81 | $27.00 | $30.00 |
| LABOR/DELIVERY | 7 - 3 | $35.40 | $38.50 | $33.35 | $36.40 | $28.81 | $33.12 | $27.00 | $30.00 |
| | 7 - 7 | $35.95 | $38.50 | $33.85 | $36.40 | $28.81 | $33.12 | $27.00 | $30.00 |
| | 3 - 11 | $36.95 | $38.50 | $34.85 | $36.40 | $30.13 | $33.12 | $27.00 | $30.00 |
| | 7 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $31.61 | $33.12 | $27.00 | $30.00 |
| | 11 - 7 | $36.95 | $38.50 | $34.85 | $36.40 | $31.61 | $33.12 | $27.00 | $30.00 |

| | | Atlantic (OLD) | | Atlantic (NEW) | | Florida Nurses Network | | (OLD) Expicere Nursing | |
|---|---|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN |
| NEO – ICU | 7 - 3 | $36.95 | $40.00 | $36.95 | $40.00 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $37.50 | $40.00 | $37.50 | $40.00 | $31.66 | $35.48 | $31.50 | $34.50 |
| | 3 - 11 | $38.50 | $40.00 | $38.50 | $40.00 | $32.47 | $35.48 | $31.50 | $34.50 |
| | 7 - 7 | $38.50 | $40.00 | $38.50 | $40.00 | $33.97 | $35.48 | $31.50 | $34.50 |
| | 11 - 7 | $38.50 | $40.00 | $38.50 | $40.00 | $33.97 | $35.48 | $31.50 | $34.50 |
| | | ALL HOLIDAYS ARE BILLED AT 1.33 | | | | | | | |
| – LPNs – | | | | | | | | | |
| HOME HEALTH | 7 - 3 | | | | | $19.95 | $20.95 | $18.00 | $18.00 |
| | 7 - 7 | | | | | $19.95 | $20.95 | $18.00 | $18.00 |
| | 3 - 11 | | | | | $19.95 | $20.95 | $18.00 | $18.00 |
| | 7 - 7 | | | | | $19.95 | $20.95 | $18.00 | $18.00 |
| | 11 - 7 | | | | | $19.95 | $20.95 | $18.00 | $18.00 |
| MED – SURG | 7 - 3 | $20.80 | $23.50 | $20.80 | $23.50 | $20.00 | $22.81 | $24.00 | $27.00 |
| | 7 - 7 | $21.35 | $23.50 | $21.35 | $23.50 | $20.00 | $22.81 | $24.00 | $27.00 |
| | 3 - 11 | $22.35 | $23.50 | $22.35 | $23.50 | $21.32 | $22.81 | $24.00 | $27.00 |
| | 7 - 7 | $22.35 | $23.50 | $22.35 | $23.50 | $22.81 | $22.81 | $24.00 | $27.00 |
| | 11 - 7 | $22.35 | $23.50 | $22.35 | $23.50 | $22.81 | $22.81 | $24.00 | $27.00 |
| NURSING HOME | 7 - 3 | | | | | | | $19.00 | $21.00 |
| | 7 - 7 | | | | | | | $19.00 | $21.00 |
| | 3 - 11 | | | | | | | $19.00 | $21.00 |
| | 7 - 7 | | | | | | | $19.00 | $21.00 |
| | 11 - 7 | | | | | | | $19.00 | $21.00 |

Palm Beach County

TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| CLASSIFICATION | SHIFT | (NEW) Expicare Nursing M – F | (NEW) Expicare Nursing SAT/SUN | (OLD) American Health Tech M – F | (OLD) American Health Tech SAT/SUN | (NEW) American Health Tech M – F | (NEW) American Health Tech SAT/SUN |
|---|---|---|---|---|---|---|---|
| – RNs – | | | | | | | |
| MED / SURG | 7 - 3 | $26.00 | $29.00 | $26.00 | $29.00 | $26.00 | $29.00 |
| | 7 - 7 | $26.50 | $29.50 | $26.25 | $29.00 | $26.25 | $29.00 |
| | 3 - 11 | $27.00 | $30.00 | $26.75 | $29.00 | $26.75 | $29.00 |
| | 7 - 7 | $28.00 | $31.00 | $27.25 | $29.00 | $27.60 | $29.00 |
| | 11 - 7 | $28.00 | $31.00 | $27.50 | $29.00 | $28.00 | $29.00 |
| CRITICAL CARE | 7 - 3 | $31.00 | $34.00 | $35.50 | $37.00 | $35.25 | $36.75 |
| | 7 - 7 | $31.50 | $34.50 | $35.70 | $37.00 | $35.45 | $36.75 |
| | 3 - 11 | $32.00 | $35.00 | $36.00 | $37.00 | $35.75 | $36.75 |
| | 7 - 7 | $33.00 | $36.00 | $36.70 | $37.00 | $36.45 | $36.75 |
| | 11 - 7 | $33.00 | $36.00 | $37.00 | $37.00 | $36.45 | $36.75 |
| TELEMETRY | 7 - 3 | $31.00 | $34.00 | $35.50 | $37.00 | $35.25 | $36.75 |
| | 7 - 7 | $31.50 | $34.50 | $35.70 | $37.00 | $35.45 | $36.75 |
| | 3 - 11 | $32.00 | $35.00 | $36.00 | $37.00 | $35.75 | $36.75 |
| | 7 - 7 | $33.00 | $36.00 | $36.70 | $37.00 | $36.45 | $36.75 |
| | 11 - 7 | $33.00 | $36.00 | $37.00 | $37.00 | $36.45 | $36.75 |
| O.R. | 7 - 3 | $31.00 | $34.00 | $35.50 | $37.00 | $35.50 | $37.00 |
| | 7 - 7 | $31.50 | $34.50 | $35.70 | $37.00 | $35.70 | $37.00 |
| | 3 - 11 | $32.00 | $35.00 | $36.00 | $37.00 | $36.00 | $37.00 |
| | 7 - 7 | $33.00 | $36.00 | $36.70 | $37.00 | $36.70 | $37.00 |
| | 11 - 7 | $33.00 | $36.00 | $37.00 | $37.00 | $37.00 | $37.00 |
| PEDIATRIC | 7 - 3 | $26.00 | $29.00 | $26.00 | $29.00 | $26.00 | $29.00 |
| | 7 - 7 | $26.50 | $29.50 | $26.25 | $29.00 | $26.25 | $29.00 |
| | 3 - 11 | $27.00 | $30.00 | $26.75 | $29.00 | $26.75 | $29.00 |
| | 7 - 7 | $28.00 | $31.00 | $27.25 | $29.00 | $27.25 | $29.00 |
| | 11 - 7 | $28.00 | $31.00 | $27.50 | $29.00 | $27.50 | $29.00 |
| PSYCHIATRIC | 7 - 3 | $26.00 | $29.00 | $35.50 | $37.00 | $35.50 | $37.00 |
| | 7 - 7 | $26.50 | $29.50 | $35.70 | $37.00 | $35.70 | $37.00 |
| | 3 - 11 | $27.00 | $30.00 | $36.00 | $37.00 | $36.00 | $37.00 |
| | 7 - 7 | $28.00 | $31.00 | $36.70 | $37.00 | $36.70 | $37.00 |
| | 11 - 7 | $28.00 | $31.00 | $37.00 | $37.00 | $37.00 | $37.00 |
| LABOR/DELIVERY | 7 - 3 | $26.00 | $29.00 | $35.50 | $37.00 | $35.50 | $37.00 |
| | 7 - 7 | $26.50 | $29.50 | $35.70 | $37.00 | $35.70 | $37.00 |
| | 3 - 11 | $27.00 | $30.00 | $36.00 | $37.00 | $36.00 | $37.00 |
| | 7 - 7 | $28.00 | $31.00 | $36.70 | $37.00 | $36.70 | $37.00 |
| | 11 - 7 | $28.00 | $31.00 | $37.00 | $37.00 | $37.00 | $37.00 |

| | | (NEW) Expicare Nursing | | (OLD) American Health Tech | | (NEW) American Health Tech | |
|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN |
| NEO – ICU | 7 - 3 | $31.00 | $34.00 | $35.50 | $37.00 | $35.50 | $37.00 |
| | 7 - 7 | $31.50 | $34.50 | $35.70 | $37.00 | $35.70 | $37.00 |
| | 3 - 11 | $32.00 | $35.00 | $36.00 | $37.00 | $36.00 | $37.00 |
| | 7 - 7 | $33.00 | $36.00 | $36.70 | $37.00 | $36.70 | $37.00 |
| | 11 - 7 | $33.00 | $36.00 | $37.00 | $37.00 | $37.00 | $37.00 |
| – LPNs – | | | | | | | |
| HOME HEALTH | 7 - 3 | $22.00 | $25.00 | | | | |
| | 7 - 7 | $22.50 | $25.50 | | | | |
| | 3 - 11 | $23.00 | $26.00 | | | | |
| | 7 - 7 | $24.00 | $27.00 | | | | |
| | 11 - 7 | $24.00 | $27.00 | | | | |
| MED – SURG | 7 - 3 | $22.00 | $25.00 | $21.00 | $26.00 | $21.00 | $26.00 |
| | 7 - 7 | $22.50 | $25.50 | $21.35 | $26.00 | $21.35 | $26.00 |
| | 3 - 11 | $23.00 | $26.00 | $22.00 | $26.00 | $22.00 | $26.00 |
| | 7 - 7 | $24.00 | $27.00 | $23.35 | $26.00 | $23.35 | $26.00 |
| | 11 - 7 | $24.00 | $27.00 | $24.00 | $26.00 | $24.00 | $26.00 |
| NURSING HOME | 7 - 3 | | | | | | |
| | 7 - 7 | | | | | | |
| | 3 - 11 | | | | | | |
| | 7 - 7 | | | | | | |
| | 11 - 7 | | | | | | |

Palm Beach County

## TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| CLASSIFICATION | SHIFT | Complete Health Svc M – F | Complete Health Svc SAT/SUN | Critical Health Care Inc. (OLD) M – F | Critical Health Care Inc. (OLD) SAT/SUN | Critical Health Care Inc. (NEW) M – F | Critical Health Care Inc. (NEW) SAT/SUN | (OLD) Quality Professional M – F | (OLD) Quality Professional SAT/SUN |
|---|---|---|---|---|---|---|---|---|---|
| – RNs – | | | | | | | | | |
| MED / SURG | 7 - 3 | $25.65 | $27.50 | $25.00 | $28.00 | $24.50 | $28.00 | | |
| | 7 - 7 | | | $25.33 | $28.33 | $24.50 | $28.00 | | |
| | 3 - 11 | $26.00 | $28.00 | $26.00 | $29.00 | $25.25 | $28.00 | | |
| | 7 - 7 | | | $26.67 | $29.67 | $26.00 | $28.00 | | |
| | 11 - 7 | $27.00 | $28.50 | $27.00 | $30.00 | $26.00 | $28.00 | | |
| CRITICAL CARE | 7 - 3 | $32.40 | $33.40 | | | | | $33.00 | $36.00 |
| | 7 - 7 | | | | | | | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | | | | | $34.00 | $37.00 |
| | 7 - 7 | | | | | | | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | | | | | $35.00 | $38.00 |
| TELEMETRY | 7 - 3 | $32.40 | $33.40 | | | $30.00 | $34.00 | $33.00 | $36.00 |
| | 7 - 7 | | | | | $30.00 | $34.00 | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | | | $31.00 | $34.00 | $34.00 | $37.00 |
| | 7 - 7 | | | | | $32.00 | $34.00 | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | | | $32.00 | $34.00 | $35.00 | $38.00 |
| O.R. | 7 - 3 | $32.40 | $33.40 | | | | | $33.00 | $36.00 |
| | 7 - 7 | | | | | | | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | | | | | $34.00 | $37.00 |
| | 7 - 7 | | | | | | | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | | | | | $35.00 | $38.00 |
| PEDIATRIC | 7 - 3 | $32.40 | $33.40 | $33.00 | $36.00 | $30.00 | $34.00 | $33.00 | $36.00 |
| | 7 - 7 | | | $33.33 | $36.33 | $30.00 | $34.00 | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | $34.00 | $37.00 | $31.00 | $34.00 | $34.00 | $37.00 |
| | 7 - 7 | | | $34.67 | $37.67 | $32.00 | $34.00 | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | $35.00 | $38.00 | $32.00 | $34.00 | $35.00 | $38.00 |
| PSYCHIATRIC | 7 - 3 | $32.40 | $33.40 | $33.00 | $36.00 | $30.00 | $34.00 | $33.00 | $36.00 |
| | 7 - 7 | | | $33.33 | $36.33 | $30.00 | $34.00 | $33.33 | $36.31 |
| | 3 - 11 | $33.00 | $34.50 | $34.00 | $37.00 | $31.00 | $34.00 | $34.00 | $37.00 |
| | 7 - 7 | | | $34.67 | $37.67 | $32.00 | $34.00 | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | $35.00 | $38.00 | $32.00 | $34.00 | $35.00 | $38.00 |
| LABOR/DELIVERY | 7 - 3 | $32.40 | $33.40 | | | | | $33.00 | $36.00 |
| | 7 - 7 | | | | | | | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | | | | | $34.00 | $37.00 |
| | 7 - 7 | | | | | | | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | | | | | $35.00 | $38.00 |

| | | Complete Health Svc | | Critical Health Care Inc. (OLD) | | Critical Health Care Inc. (NEW) | | (OLD) Quality Professional | |
|---|---|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN |
| NEO – ICU | 7 - 3 | $32.40 | $33.40 | | | | | $33.00 | $36.00 |
| | 7 - 7 | | | | | | | $33.33 | $36.33 |
| | 3 - 11 | $33.00 | $34.50 | | | | | $34.00 | $37.00 |
| | 7 - 7 | | | | | | | $34.67 | $37.67 |
| | 11 - 7 | $33.50 | $36.00 | | | | | $35.00 | $38.00 |
| – LPNs – | | | | | | | | | |
| HOME HEALTH | 7 - 3 | $23.00 | $25.50 | | | | | | |
| | 7 - 7 | | | | | | | | |
| | 3 - 11 | $24.00 | $26.00 | | | | | | |
| | 7 - 7 | | | | | | | | |
| | 11 - 7 | $25.00 | $27.00 | | | | | | |
| MED – SURG | 7 - 3 | $21.00 | $23.00 | $22.00 | $25.00 | $20.00 | $25.00 | | |
| | 7 - 7 | | | $22.33 | $25.33 | $20.00 | $25.00 | | |
| | 3 - 11 | $22.50 | $24.00 | $23.00 | $26.00 | $21.50 | $25.00 | | |
| | 7 - 7 | | | $23.67 | $26.67 | $22.00 | $25.00 | | |
| | 11 - 7 | $23.00 | $25.00 | $24.00 | $27.00 | $22.00 | $25.00 | | |
| NURSING HOME | 7 - 3 | $23.00 | $25.50 | $25.00 | $28.00 | $24.50 | $28.00 | | |
| | 7 - 7 | | | $25.33 | $28.33 | $24.50 | $28.00 | | |
| | 3 - 11 | $24.00 | $26.00 | $26.00 | $29.00 | $25.25 | $28.00 | | |
| | 7 - 7 | | | $26.67 | $29.67 | $26.00 | $28.00 | | |
| | 11 - 7 | $25.00 | $27.00 | $27.00 | $30.00 | $26.00 | $28.00 | | |

Palm Beach County

TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| CLASSIFICATION | SHIFT | (NEW) Quality Professional M – F | (NEW) Quality Professional SAT/SUN | High Tech Staffing Services, Inc. (OLD) M – F | High Tech Staffing Services, Inc. (OLD) SAT/SUN | High Tech Staffing Services, Inc. (NEW) M – F | High Tech Staffing Services, Inc. (NEW) SAT/SUN |
|---|---|---|---|---|---|---|---|
| – RNs – | | | | | | | |
| MED / SURG | 7 - 3 | | | $28.84 | $32.05 | $27.95 | $31.09 |
| | 7 - 7 | | | $29.20 | $32.05 | $28.32 | $31.09 |
| | 3 - 11 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| | 7 - 7 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| | 11 - 7 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| CRITICAL CARE | 7 - 3 | $32.00 | $36.00 | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | $32.00 | $36.00 | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | $33.25 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| TELEMETRY | 7 - 3 | $32.00 | $36.00 | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | $32.00 | $36.00 | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | $33.25 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| O.R. | 7 - 3 | $32.00 | $36.00 | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | $32.00 | $36.00 | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | $33.25 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| PEDIATRIC | 7 - 3 | | | $28.84 | $32.05 | $27.95 | $31.09 |
| | 7 - 7 | | | $29.20 | $32.05 | $28.32 | $31.09 |
| | 3 - 11 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| | 7 - 7 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| | 11 - 7 | | | $29.91 | $32.05 | $29.01 | $31.09 |
| PSYCHIATRIC | 7 - 3 | | | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | | | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | | | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | | | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | | | $37.45 | $39.59 | $36.31 | $38.40 |
| LABOR/DELIVERY | 7 - 3 | $32.00 | $36.00 | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | $32.00 | $36.00 | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | $33.25 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |

| | | (NEW) Quality Professional | | High Tech Staffing Services, Inc. (OLD) | | High Tech Staffing Services, Inc. (NEW) | |
|---|---|---|---|---|---|---|---|
| CLASSIFICATION | SHIFT | M – F | SAT/ SUN | M – F | SAT/ SUN | M – F | SAT/ SUN |
| NEO – ICU | 7 - 3 | $32.00 | $36.00 | $35.85 | $39.59 | $34.77 | $38.40 |
| | 7 - 7 | $32.00 | $36.00 | $36.38 | $39.59 | $35.29 | $38.40 |
| | 3 - 11 | $33.25 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 7 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| | 11 - 7 | $34.50 | $36.00 | $37.45 | $39.59 | $36.31 | $38.40 |
| – LPNs – | | | | | | | |
| HOME HEALTH | 7 - 3 | | | $22.20 | $24.34 | $21.76 | $23.86 |
| | 7 - 7 | | | $22.56 | $24.34 | $22.12 | $23.86 |
| | 3 - 11 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 7 - 7 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 11 - 7 | | | $23.27 | $24.34 | $22.61 | $23.86 |
| MED – SURG | 7 - 3 | | | $22.20 | $24.34 | $21.76 | $23.86 |
| | 7 - 7 | | | $22.56 | $24.34 | $22.12 | $23.86 |
| | 3 - 11 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 7 - 7 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 11 - 7 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| NURSING HOME | 7 - 3 | | | $22.20 | $24.34 | $21.76 | $23.86 |
| | 7 - 7 | | | $22.56 | $24.34 | $22.12 | $23.86 |
| | 3 - 11 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 7 - 7 | | | $23.27 | $24.34 | $22.81 | $23.86 |
| | 11 - 7 | | | $23.27 | $24.34 | $22.81 | $23.86 |

Palm Beach County

TEMPORARY NURSING AGENCY PROPOSALS FOR PALM BEACH COUNTY

| CLASSIFICATION | SHIFT | Olsten (OLD) M – F | Olsten (OLD) SAT/SUN | Olsten (NEW) M – F | Olsten (NEW) SAT/SUN | American Medical Staffing, Inc. (OLD) M – F | American Medical Staffing, Inc. (OLD) SAT/SUN | American Medical Staffing, Inc. (NEW) M – F | American Medical Staffing, Inc. (NEW) SAT/SUN |
|---|---|---|---|---|---|---|---|---|---|
| - RNs - | | | | | | | | | |
| MED / SURG | 7 - 3 | $28.55 | $31.95 | $27.75 | $30.95 | $25.00 | $29.00 | $24.00 | $28.00 |
| | 7 - 7 | $29.00 | $31.95 | $28.00 | $30.95 | $25.30 | $29.30 | $24.30 | $28.30 |
| | 3 - 11 | $29.50 | $31.95 | $28.60 | $30.95 | $26.00 | $30.00 | $25.00 | $29.00 |
| | 7 - 7 | $29.75 | $31.95 | $29.00 | $30.95 | $26.60 | $30.60 | $25.60 | $29.60 |
| | 11 - 7 | $30.25 | $31.95 | $29.50 | $30.95 | $27.00 | $31.00 | $26.00 | $30.00 |
| CRITICAL CARE | 7 - 3 | $36.25 | $41.95 | $34.95 | $40.50 | $33.00 | $37.00 | $32.00 | $36.00 |
| | 7 - 7 | $37.25 | $41.95 | $35.00 | $40.50 | $33.30 | $37.30 | $32.30 | $36.30 |
| | 3 - 11 | $38.75 | $41.95 | $37.50 | $40.50 | $34.00 | $38.00 | $33.00 | $37.00 |
| | 7 - 7 | $39.00 | $41.95 | $38.00 | $40.50 | $34.60 | $38.60 | $33.60 | $37.60 |
| | 11 - 7 | $39.50 | $41.95 | $38.40 | $40.50 | $35.00 | $39.00 | $34.00 | $38.00 |
| TELEMETRY | 7 - 3 | $36.25 | $41.95 | $34.95 | $40.50 | $31.00 | $35.00 | $30.00 | $34.00 |
| | 7 - 7 | $37.25 | $41.95 | $35.00 | $40.50 | $31.30 | $35.30 | $30.30 | $34.30 |
| | 3 - 11 | $38.75 | $41.95 | $37.50 | $40.50 | $32.00 | $36.00 | $31.00 | $35.00 |
| | 7 - 7 | $39.00 | $41.95 | $38.00 | $40.50 | $32.60 | $36.60 | $31.60 | $35.60 |
| | 11 - 7 | $39.50 | $41.95 | $38.40 | $40.50 | $33.00 | $37.00 | $32.00 | $36.00 |
| O.R. | 7 - 3 | $36.25 | $41.95 | $34.95 | $40.50 | $33.00 | $37.00 | $32.00 | $36.00 |
| | 7 - 7 | $37.25 | $41.95 | $35.00 | $40.50 | $33.30 | $37.30 | $32.30 | $36.30 |
| | 3 - 11 | $38.75 | $41.95 | $37.50 | $40.50 | $34.00 | $38.00 | $33.00 | $37.00 |
| | 7 - 7 | $39.00 | $41.95 | $38.00 | $40.50 | $36.60 | $38.60 | $33.60 | $37.60 |
| | 11 -7 | $39.50 | $41.95 | $38.40 | $40.50 | $35.00 | $39.00 | $34.00 | $38.00 |
| PEDIATRIC | 7 - 3 | $36.25 | $41.95 | $27.75 | $30.95 | $31.00 | $35.00 | $30.00 | $34.00 |
| | 7 - 7 | $37.25 | $41.95 | $28.00 | $30.95 | $31.30 | $35.30 | $30.30 | $34.30 |
| | 3 - 11 | $38.75 | $41.95 | $28.60 | $30.95 | $32.00 | $36.00 | $31.00 | $35.00 |
| | 7 - 7 | $39.00 | $41.95 | $29.00 | $30.95 | $32.60 | $36.60 | $31.60 | $35.60 |
| | 11 - 7 | $39.50 | $41.95 | $29.50 | $30.95 | $33.00 | $37.00 | $32.00 | $36.00 |
| PSYCHIATRIC | 7 - 3 | $28.55 | $31.95 | $27.75 | $30.95 | $25.00 | $29.00 | $24.00 | $28.00 |
| | 7 - 7 | $29.00 | $31.95 | $28.00 | $30.95 | $25.30 | $29.30 | $24.30 | $28.30 |
| | 3 - 11 | $29.50 | $31.95 | $28.60 | $30.95 | $24.00 | $30.00 | $25.00 | $29.00 |
| | 7 - 7 | $29.75 | $31.95 | $29.00 | $30.95 | $24.60 | $30.60 | $25.60 | $29.60 |
| | 11 - 7 | $30.25 | $31.95 | $29.50 | $30.95 | $27.00 | $31.00 | $26.00 | $30.00 |
| LABOR/DELIVERY | 7 - 3 | $28.55 | $31.95 | $27.75 | $30.95 | $25.00 | $29.00 | $24.00 | $28.00 |
| | 7 - 7 | $29.00 | $31.95 | $28.00 | $30.95 | $25.30 | $29.30 | $24.30 | $28.30 |
| | 3 - 11 | $29.50 | $31.95 | $28.60 | $30.95 | $26.00 | $30.00 | $25.00 | $29.00 |
| | 7 - 7 | $29.75 | $31.95 | $29.00 | $30.95 | $26.60 | $30.60 | $25.60 | $29.60 |
| | 11 - 7 | $30.25 | $31.95 | $29.50 | $30.95 | $27.00 | $31.00 | $26.00 | $30.00 |

| CLASSIFICATION | SHIFT | Olsten (OLD) M – F | Olsten (OLD) SAT/SUN | Olsten (NEW) M – F | Olsten (NEW) SAT/SUN | American Medical Staffing, Inc. (OLD) M – F | American Medical Staffing, Inc. (OLD) SAT/SUN | American Medical Staffing, Inc. (NEW) M – F | American Medical Staffing, Inc. (NEW) SAT/SUN |
|---|---|---|---|---|---|---|---|---|---|
| NEO – ICU | 7 - 3 | $36.25 | $41.95 | $34.95 | $40.50 | $33.00 | $37.00 | $32.00 | $36.00 |
| | 7 - 7 | $37.25 | $41.95 | $35.00 | $40.50 | $33.30 | $37.30 | $32.30 | $36.30 |
| | 3 - 11 | $38.75 | $41.95 | $37.50 | $40.50 | $34.00 | $38.00 | $33.00 | $37.00 |
| | 7 - 7 | $39.00 | $41.95 | $38.00 | $40.50 | $34.60 | $38.60 | $33.60 | $37.60 |
| | 11 - 7 | $39.50 | $41.95 | $38.40 | $40.50 | $35.00 | $39.00 | $34.00 | $38.00 |
| - LPNs - | | | | | | | | | |
| HOME HEALTH | 7 - 3 | $20.25 | $21.95 | $19.75 | $21.25 | | | | |
| | 7 - 7 | $20.50 | $21.95 | $19.75 | $21.25 | | | | |
| | 3 - 11 | $20.75 | $21.95 | $20.00 | $21.25 | | | | |
| | 7 - 7 | $20.75 | $21.95 | $20.25 | $21.25 | | | | |
| | 11 - 7 | $21.00 | $21.95 | $20.50 | $21.25 | | | | |
| MED – SURG | 7 - 3 | $21.95 | $26.95 | $21.25 | $25.95 | $22.00 | $26.00 | $21.00 | $25.00 |
| | 7 - 7 | $22.50 | $26.95 | $21.75 | $25.95 | $22.30 | $26.30 | $21.30 | $25.30 |
| | 3 - 11 | $23.50 | $26.95 | $22.95 | $25.95 | $23.00 | $27.00 | $22.00 | $26.00 |
| | 7 - 7 | $24.00 | $26.95 | $23.25 | $25.95 | $23.60 | $27.60 | $22.60 | $26.60 |
| | 11 - 7 | $24.50 | $26.95 | $23.75 | $25.95 | $24.00 | $28.00 | $23.00 | $27.00 |
| NURSING HOME | 7 - 3 | $18.50 | $20.75 | $17.95 | $20.00 | | | | |
| | 7 - 7 | $18.75 | $20.75 | $18.25 | $20.00 | | | | |
| | 3 - 11 | $18.95 | $20.75 | $18.50 | $20.00 | | | | |
| | 7 - 7 | $19.25 | $20.75 | $18.75 | $20.00 | | | | |
| | 11 - 7 | $19.50 | $20.75 | $18.95 | $20.00 | | | | |

Palm Beach County

## CORPORATE DISCLOSURE STATEMENT

The following entities are parents, affiliates or subsidiaries of Respondents.

Bethesda Healthcare System, Inc.

Bethesda Memorial Hospital, Inc. (Respondent)

Bethesda Physician Hospital Organization, Inc.

Bethesda Ambulance Service, Inc.
Bethesda HBO, Inc.

NHS Bethesda (Joint Venture)

Bethesda Health City, Inc.
Bethesda Holding Company

B.H. Laboratories, Inc.
Bethesda Management Services, Inc.

Prestige Physician Services

Bethesda Med/Surg Specialist, Inc.
Bethesda-Plus, Inc.
Bethesda Wellness Center, Inc.
Bethesda West Ambulatory Surgery Center, Inc.

Bethesda West Surgery Center, LP

Palm Beach Credit Adjustors, Inc.

Bethesda Payroll Services, Inc.
Bethesda Medical Associates, Inc.
Bethesda Medical Buildings, Inc.
Woman's Diagnostic Center of Bethesda, Inc.

Boca Raton Corporation

Boca Raton Community Hospital, Inc. (Respondent)
Boca Raton Community Hospital Foundations, Inc.
Boca Raton Community Hospital Health Plans, Inc.
Boca Raton Community Hospital Home Health Services, Inc.

Boca Raton Community Hospital Imaging, Inc.
Boca Raton Community Hospital Properties, Inc.

Quantum Foundation, Inc.

JFK Medical Center Foundation, Inc.

Quorum Health Resources, Inc.

Jupiter Medical Center (Respondent)
Jupiter Medical Center Foundation, Inc.
Jupiter Pavilion

South Florida Hospital Association, Inc. (Respondent)

South Florida Hospital Association Research Education Foundation
South Florida Hospital Association Health Care Consortium, Inc.

Tenet Healthcare Corporation (Parent of Respondents Pinecrest Rehabilitation Hospital, West Boca Medical Center and Del Ray Community Hospital)

Tenet HealthSystem Holdings, Inc.

Tenet HealthSystem Medical, Inc.

Tenet Management Services, Inc.

Tenet Health Integrated Services, Inc.

Quality Medical Management, Inc.
Mid-Orange Medical Management, Inc.
Alexa Integrated Medical Management, Inc.

Alabama Health Connection, Inc.
Alabama Medical Group, Inc.
American Medical (Central), Inc.

Amisub (Heights), Inc.
Tenet Texas Employment, Inc.
Amisub of Texas, Inc.
Amisub (Twelve Oaks), Inc.
Lifemark Hospitals, Inc.

Tenet Healthcare, Ltd.

Odessa Hospital, Ltd.

Texas Healthcare Physicians Services, Inc.

Amisub (Brownsville MRI), Inc.
Lifemark Hospitals of Florida, Inc.

Palmetto Medical Plan, Inc.
Pain Management Center of Tampa, Inc.
T&C and USF Ob/Gyn Center, Inc.

Lifemark Hospitals of Louisiana, Inc.

Kenner Regional Clinical Services, Inc.

Lifemark Hospitals of Missouri, Inc.

Lifemark RMP Joint Venture

Regional Alternative Health Services, Inc.
Houston Specialty Hospital, Inc.
Memphis Specialty Hospital, Inc.
Tenet Investments-Kenner, Inc.

Texas Southwest Healthservices, Inc.

American Medical Finance Company
American Medical Home Care, Inc.
American Purchasing Services, Inc.
AMI Ambulatory Centres, Inc.

Surgical Services, Inc.

Ambulatory Care – Broward Development Corp.
Surgical Services of South Lauderdale, Inc.
Surgical Services of West Dade, Inc.

AMI Arkansas, Inc.

Healthstar Properties Limited Partnership

Healthstar Ultima, L.L.C.

AMI Brokerage Services, Inc.
AMI Diagnostic Services, Inc.
AMI Information Systems Group, Inc.

American Medical International B.V.

American Medical International N.V.

AMI/HTI Tarzana Encino Joint Venture
Tenet System Services, Inc.
Amisub (American Hospital), Inc.
Amisub (Culver Union Hospital), Inc.

Choice Care Network, Inc.

Amisub Development of South Carolina, Inc.

Hilton Head Clinics, Inc.

Amisub (Florida Ventures), Inc.

PBG Outpatient Services, Inc.
Brookwood Diagnostic Center of Tampa, Inc.
Lauderdale Clinical Services, Inc.
Ft. Lauderdale Surgery Center, Inc.
Tampa MOB 107, Inc.
Tampa MOB 104, Inc.
Tampa 8313 West Hillsborough, Inc.
Tampa 4802 Gunn Highway, Inc.
Center for Quality Care, Inc.
Tampa 418 W. Platt St., Inc.

Amisub (GTS), Inc.
Amisub (Hilton Head), Inc.
Amisub (Irvine Medical Center), Inc.
Tenet HealthSystem Spalding, Inc.

Health International, Inc.
Tenet Primary Care Clinic, Inc.

Amisub (North Ridge Hospital), Inc.

FL Health Complex, Inc.
North Ridge Carenet, Inc.

North Ridge Partners, Inc.
North Ridge Physician-Hospital Organization, Inc.

Amisub of California, Inc.

Valley Doctors' Hospital

Family Medical Services

Physician Practice Management Corporation
Park Plaza Retail Pharmacy, Inc.

Amisub of North Carolina, Inc.
Central Carolina Management Services Organization, Inc.
Amisub (SMHS), Inc.
Amisub of South Carolina, Inc.

Piedmont Medical Services Company
Piedmont One, Inc.
Piedmont Two, Inc.
Piedmont Three, Inc.
Piedmont Fourth, Inc.
Piedmont Five, Inc.
Piedmont Six, Inc.
Piedmont Seven, Inc.
Piedmont Eight, Inc.
Piedmont Nine, Inc.

Amisub (Saint Joseph Hospital), Inc.

Creighton Saint Joseph Regional HealthCare System, L.L.C.
Saint Joseph Mental Health Plans, Inc.
Saint Joseph Mental Health Physicians, Inc.
Home-based Psychiatric Services, Inc.

Amisub (SFH), Inc.
Amisub (Sierra Vista), Inc.
Amisub TGDA, Inc.

Arkansas Healthcare Services, Inc.
Brookwood Center Development Corporation

Hoover Doctors Group, Inc.
Medplex Outpatient Medical Centers, Inc.

Brookwood Development, Inc.

Alabama Health Services, Inc.
Alabama Health Services (St. Clair), L.L.C.
Group Administrators, Inc.

Brookwood Health Services, Inc.

Brookwood Medical Center of Tampa, Inc.
Brookwood – Riverchase Primary Care Center, Inc.
Estes Health Care Centers, Inc.

Central Arkansas Hospital, Inc.

Amisub (Central Arkansas), Inc.

Columbia Land Development, Inc.
Cumming Medical Ventures, Inc.
East Cooper Community Hospital, Inc.

Charleston Health Services Organization, Inc.

Eastern Professional Properties, Inc.
Florida Health Network, Inc.
Frye Regional Medical Center, Inc.

Frye Home Infusion, Inc.
Piedmont Health Alliance, Inc.
Frye Home Care Services, Inc.
Tenet Claims Processing, Inc.

Georgia Health Services, Inc.
Heartland Corporation, Inc.

Prairie Medical Clinic, Inc.
Heartland Physicians, Inc.

Inhalation Therapy Services, Inc.
Kenner Regional Medical Center, Inc.
Lucy Lee Hospital, Inc.
Medical Center of Garden Grove
Medical Collections, Inc.
Mid-Continent Medical Practices, Inc.
Missouri Health Services, Inc.
National Park Medical Center, Inc.

Tenet HealthSystem NPMC Hamilton West, Inc.

New H Holdings Corp.

New H Acute, Inc.

New H South Bay, Inc.

North Carolina Health Services, Inc.
North Fulton Imaging Ventures, Inc.
North Fulton Medical Center, Inc.

North Fulton Health Care Associates, Inc.
North Fulton Regional Cancer Center, Inc.
North Fulton 001, Inc.
North Fulton 002, Inc.
North Fulton 003, Inc.
North Fulton 004, Inc.
North Fulton 005, Inc.
North Fulton 006, Inc.
North Fulton 007, Inc.
North Fulton 008, Inc.
North Fulton 009, Inc.
North Fulton 010, Inc.
North Fulton 011, Inc.
North Fulton 012, Inc.

North Fulton MOB Ventures, Inc.
Occupational Health Medical Services of Florida, Inc.
Palm Beach Gardens Community Hospital, Inc.
Partners in Service, Inc.

Physicians Development, Inc.
Piedmont Home Health, Inc.
Piedmont Rehab Center, Inc.
Pinnacle Healthcare Services, Inc.
Professional Healthcare Systems Licensing Corporation
ProMed Pharmicenter, Inc.
Roswell Medical Ventures, Inc.
Saint Joseph Mental Health Physicians, Inc.
San Dimas Community Hospital
SEMO Medical Management Company, Inc.
Sierra Vista Hospital, Inc.

Tenet HealthSystem Sierra Vista Venture I, Inc.
Tenet HealthSystem Sierra Vista Ventures II, Inc.

South Carolina Health Services, Inc.
St. Mary's Regional Medical Center, Inc.

Amisub (St. Mary's), Inc.
St. Mary's Medical Group, Inc.

Tenet (Brookwood Development), Inc.

Health Advantage Plans, Inc.

Tennessee Health Services, Inc.
Texas Healthcare Services, Inc.
Texas Professional Properties, Inc.
Tenet Caldwell Family Physicians, Inc.
Tenet East Cooper Spine Center, Inc.
Tenet Health Network, Inc.
Tenet HealthSystem Partners, Inc.
Tenet Physician Services of the Southeast, Inc.

HUG Services, Inc.
Assured Investors Life Company

Stanislaus Life Insurance Company

H.F.I.C. Management Company, Inc.

Health Facilities Insurance Corp., Ltd. – Bermuda

International-NME, Inc.

LEIR Canada, Inc.
N.M.E. International (Cayman) Limited – Cayman Islands, B.W.I.

B.V. Hospital Management – Netherlands
Pacific Medical Enterprises Sdn. Bhd. – Malaysia

Hyacinth Sdn. Bhd.

Medicalia International, B.V. – Netherlands
NME Spain, S.A.
NME UK Properties Limited

Tenet Healthcare (Australia) Pty., Limited
NME Headquarters, Inc.
Tenet HealthSystem Hospitals, Inc.

Brookhaven Hospital, Inc.

Brookhaven Pavilion, Inc.

Manteca Medical Management, Inc.
Tenetsub Texas, Inc.
Tenet Hospitals Limited
National Managed Med, Inc.
National Med, Inc.
National Medical Hospital of Tullahoma, Inc.

Harton Medical Group, Inc.

National Medical Hospital of Wilson County, Inc.

Wilson County Management Services, Inc.

National Medical Services, Inc.

Barron, Barron & Roth, Inc.

National Medical Ventures, Inc.

Litho I – LP
McHenry Surgery Center Partners, Ltd – LP
Redding Surgicenter – LP
Alvarado Outpatient Surgery Center – LPO

Tenet Hialeah HealthSystem, Inc.

Hialeah Real Properties, Inc.
Tenet Hialeah (H.H.A.) HealthSystem, Inc.
Tenet Hialeah (ASC) HealthSystem, Inc.

NM Ventures – California, Inc.
NM Ventures of North County, Inc.

North County Outpatient Surgery Center, Ltd.

Tenet HealthSystem Hospitals Dallas, Inc.
NME Medical de Mexico. S.A. de C.V.
NMV Hollywood, Inc.

Hollywood Medical Center – LP

NMV – Tennessee, Inc.
Physician Network Corporation of Louisiana
Laughlin Pavilion, Inc.
NMV-II, Inc.
Preferred Medical Systems of California, Inc.
Rehabilitative Driving Resources, Inc.
West Coast PT Clinic, Inc.
Tenet HealthSystem Memorial Medical Center, Inc.
Tenet Healthcare – Florida, Inc.
Tenet Beaumont Healthsystem, Inc.
Tenet Network Management, Inc.
South Bay Practice Administrators, Inc.
Tenet HealthSystem Sierra Vista Ventures I, Inc.
Tenet HealthSystem Sierra Vista Ventures II, Inc.
Tenet Missouri JV, Inc.
Tenet Birmingham Management, Inc.
Practice Partners, Inc.
MHJ, Inc.

Jonesboro Health Services, L.L.C.

NPMC Healthcenter – The Heart Clinic, Inc.
NPMC Healthcenter – National park Surgery Clinic, Inc.
NPMC Healthcenter – Cardiology Services, Inc.
NPMC Healthcenter – Physicians for Women, Inc.
NPMC Healthcenter Cardiology Care Center, Inc.
Tenet California Medical Ventures I, Inc.
LMC Physician Clinics, Inc.
Diagnostic Imaging Services, Inc.
Metro Physicians Management Organization, Inc.
Tenet Louisiana Medical Ventures I, Inc.
Northeast Texas Healthcare Enterprises
Mid-Tennessee Health Partners, L.L.C.

NME Properties Corp.

Cascade Insurance Company, Ltd.
NME Properties, Inc.

Lake Health Care Facilities, Inc.
NME Properties West, Inc.
NME Property Holding Co., Inc.

NME Rehabilitation Properties, Inc.

R.H.S.C. Prosthetics, Inc.
Rehabilitation Facility at San Ramon, Inc.
Rehabilitation Facility at San Diego
R.H.S.C. Modesto, Inc.
Pinecrest Rehabilitation Hospital, Inc.
R.H.S.C. El Paso, Inc.
Tenet HealthSystem Pinecrest Rehab, Inc.

NME Specialty Hospitals, Inc.

National Medical Specialty Hospital of Redding
NME Management Services, Inc.
NME New Beginnings, Inc.

Addiction Treatment Centers of Maryland, Inc.
Alcoholism Treatment Centers of New Jersey, Inc.
Health Institutes, Inc.

Fenwick Hall, Inc
Health Institutes Investments, Inc.

NME New Beginnings – Western, Inc.

Norquest/RCA – W Bitter Lake Partnership

NME Partial Hospital Services Corporation
NME Psychiatric Hospitals, Inc.

The Huron Corporation

NME Rehabilitation Hospitals, Inc.
Psychiatric Management Services Company

Northshore Hospital Management Corporation (LA)
Syndicated Office Systems
Wilshire Rental Corp.
Women's Medical Center of America, Inc.

Universal Health Services, Inc. (Parent of Respondent Wellington Regional Hospital)

UHS of Delaware, Inc.
Aiken Regional Medical Centers, Inc.
The Arbour, Inc.

Arbour Elder Services, Inc.
ASC of Clarkston, Inc.
ASC of Corona, Inc.
ASC of Las Vegas, Inc.
ASC of Littleton, Inc.
ASC of Midwest City, Inc.
ASC of New Albany, Inc.
ASC of Palm Springs, Inc.
ASC of Ponca City, Inc.
ASC of Springfield, Inc.
ASC of St. George, Inc.
Auburn Regional Medical Center, Inc.
The Bridge Way, Inc.
Children's Hospital of McAllen, Inc.
Comprehensive Occupational and Clinical Health, Inc.

Del Amo Hospital, Inc.
Doctors' General Hospital, Ltd.
Doctors' Hospital of Shreveport, Inc.
Doctors' Hospital of Shreveport, Inc.
Eye West Laser Vision, L.P.
Forest View Psychiatrist Hospital, Inc.
Glen Oaks Hospital, Inc.
Health Care Finance & Construction Corp.
HRI Clinics, Inc.
Hope Square Surgical Center, L.P.

(d/b/a Surgery Centers of the Desert)

Inland Valley Regional Medical Center, Inc.
Internal Medicine Associates of Doctors' Hospital, Inc.
La Amistad Residential Treatment Center, Inc.
Manatee Memorial Hospital, L.P.
McAllen Medical Center, Inc.

(d/b/a Surgical Center of New Albany)

Northern Nevada Medical Center, L.P.

(d/b/a/ Northern Nevada Medical Center)

Northwest Texas Healthcare System, Inc.
The Pavilion Foundation
Pueblo Medical Center, Inc.
RCW of Edmond, Inc.
Relational Therapy Clinic, Inc.
Renaissance Women's Center of Austin, L.P.
Renaissance Women's Center of Edmond, L.L.C.
River Crest Hospital, Inc.
River Oaks, Inc.
River Parishes Internal Medicine, Inc.
Sparks Family Hospital, Inc.
St. George Surgical Center, L.P.

(d/b/a St. George Surgery Center)

St. Louis Behavioral Medicine Institute, Inc.
Summerlin Medical Center, L.P.
Surgery Center of Corona, L.P.

(d/b/a Surgery Center of Corona)

Surgery Center of Littleton, L.P.

(d/b/a Littleton Day Surgery Center)

Surgery Center of Midwest City, L.P.

(d/b/a MD Physicians Surgicenter of Midwest City)

Surgery Center of Odessa, L.P.

(d/b/a Surgery Center of Texas)

Surgery Center of Ponca City, L.P.

(d/b/a Outpatient Surgical Center of Ponca City)

Surgery Center of Springfield, L.P.

(d/b/a Surgery Center of Springfield)

Surgery Center of Waltham, Limited Partnership

(d/b/a Surgery Center of Waltham)

Tonopah Health Services, Inc.
Turning Point Care Center, Inc.

(d/b/a Turning Point Hospital)

Two Rivers Psychiatric Hospital, Inc.
UHS of Belmont, Inc.
UHS of Bethesda, Inc.
UHS of Columbia, Inc.
UHS Croyden Limited
UHS of DeLaRonde, Inc.
UHS of Delaware, Inc.
UHS of Fayetville, Inc.

UHS of Florida, Inc.
UHS of Fuller, Inc.
UHS Holding Company, Inc.
UHS of Illinois, Inc.
UHS International Limited
UHS Las Vegas Properties, Inc.
UHS Leasing Company, Limited
UHS London Limited
UHS of Manatee, Inc.
UHS of New Orleans, Inc.

(d/b/a Chalmette Hospital and River Parishes Hospital)

UHS of New York, Inc.
UHS of Odessa, Inc.
UHS of Pennsylvania, Inc.
UHS of Plantation, Inc.
UHSR Corporation
UHS Receivables Corp.
UHS Recovery Foundation, Inc.
UHS of River Parishes, Inc.
UHS of Riverton, Inc.
UHS of Timberlawn, Inc.
UHS of Vermont, Inc.
UHS of Waltham, Inc.
Universal Health Network, Inc.
Universal Health Pennsylvania Properties, Inc.
Universal Health Recovery Centers, Inc.

(d/b/a UHS KeyStone Center)

Universal Health Services of Cedar Hill, Inc.
Universal Health Services of Concord, Inc.
Universal Treatment Centers, Inc.
Valley Hospital Medical Center, Inc.
Valley Surgery Center, L.P.

(d/b/a Goldring Surgery Center)

Victoria Regional Medical Center, Inc.
Wellington Physician Alliances, Inc.
Wellington Regional Medical Center Incorporated
Westlake Medical Center, Inc.